

Page 747			Page 749		
1 IN THE MATTER OF AN ARBITRATION			1 INDEX		
2 BETWEEN			2 WITNESS		PAGE
3 LANCE ARMSTRONG and §			3 ROBERT HAMMAN		752
4 TAILWIND SPORTS, INC. §			3 DIRECT EXAMINATION BY MR. HERMAN		796
5 §			4 CROSS EXAMINATION BY MR. TILLOTSON		843
6 Claimants, § ARBITRATION BEFORE THE			4 RE-DIRECT EXAMINATION BY MR. HERMAN		865
7 § HONORABLE RICHARD			5 RE-CROSS EXAMINATION BY MR. TILLOTSON		868
8 VS. § FAULKNER, RICHARD			6 RE-DIRECT EXAMINATION BY MR. HERMAN		
9 § CHERNICK AND TED LYON			7 CHRISTOPHER COMPTON		
10 SCA PROMOTIONS, INC. and §			7 DIRECT EXAMINATION BY MR. HERMAN		874
11 HAMMAN INSURANCE SERVICES, §			8 CLAIMANTS' EXHIBITS		
12 INC. §			10 - 1/3/01 B. Hamman email to Lorenzo re: 802		
13 Respondents. §			10 - Agreement of Bonus Levels		
14 ARBITRATION			11 - 10 - 1/9/01 B. Hamman e-mail to J. Bandy 752		
15 TRANSCRIPT OF PROCEEDINGS			12 - re: performance bonus contract		
16 JANUARY 10, 2006			13 - 17 - Unsigned SCA Promotions prize contract 809		
17 VOLUME 5			13 - #31122 and Ex. A		
18 CONFIDENTIAL			14 - 31 - 9/11/04 Michelitch e-mail to Stapleton 941		
19 On 10th day of January, 2006, at			15 - re: surprise at SCA's handling of		
20 9:04 a.m., the arbitration in the above proceedings			16 - bonus		
21 came on before Arbitrators Richard Faulkner, Richard			17 - 32 - 9/9/04 e-mails between Price and 939		
22 Chernick and Ted Lyon, at the offices of Richard			17 - Hundley re: Lloyds		
23 Faulkner, 12655 North Central Expressway, Suite 810,			18 - 38 - CSE letter 777		
24 in the City of Dallas, County of Dallas, State of			19 - 39 - 7/14/04 e-mails between Price and 938		
25 Texas.			20 - Overton re: coverage bonus for 2005		
1 APPEARANCES			21 - 67 - 9/7/05 memo from Compton to LTP re: 968		
2 FOR THE CLAIMANTS:			21 - Marty Jemison		
3 Mr. Tim Herman			22 - 68 - 2/17/05 Compton letter to C Long re: 980		
4 Mr. Sean Breen			22 - receipt of trash can liner		
5 HERMAN HOWRY & BREEN			23 - 69 - 7/27/04 Compton letter to I. Galloway 784		
6 1900 Pearl Street			24 - re: engagement for investigation		
7 Austin, Texas 78705-5408			25 - Mission Report LA 971		
8 Ms. Lisa Blue					
9 BARON & BUDD					
10 1100 Centrum Building					
11 3102 Oak Lawn Avenue					
12 Dallas, Texas 75219					
13 FOR THE RESPONDENTS:					
14 Mr. Jeffrey M. Tillotson					
15 Mr. Cody L. Towns					
16 LYNN TILLOTSON & PINKER, L.L.P.					
17 Suite 1400					
18 750 North St. Paul Street					
19 Dallas, Texas 75201					
20 ALSO PRESENT:					
21 Ms. Mariela Evora					
22 Mr. Chris Compton					
23 Mr. John Bandy					
24 Mr. Robert Hamman					
25 Mr. Michael Ashenden					
1 DICKMAN DAVENPORT, INC.					
2 214.855.5100					
3 www.dickmandavenport.com					
4 800.445.9548					

		Page 751		Page 753
1	53 - CSE letter to Dear Colleague	837	1	of Mr. Armstrong for any one of those four years were
2	82 - 9/21/04 Herman letter to Compton re: Cause No. 04-9557	823	2	stripped?
3	83 - 7-20-98 Toronto Star article	796	3	A. No. I made provision that if that was the
4	84 - 12/20/04 Hearing Transcript	900	4	case, yes.
5			5	Q. Can you point to any other incentive contract
6			6	that SCA has ever entered into where that kind of
7			7	instruction was given to Mr. Bandy?
8			8	A. Yes.
9			9	Q. What?
10			10	A. Olympic sports.
11			11	Q. So what would be the -- well, strike that.
12			12	Has any Olympic medal or title ever been
13			13	stripped for anything other than doping?
14			14	A. Not -- well, yes.
15			15	Q. What?
16			16	A. Jim Thorpe was stripped of his medals for
17			17	playing professional ball.
18			18	Q. Well, but SCA didn't insure Jim Thorpe's
19			19	sponsor.
20			20	A. I don't think we did.
21			21	Q. Right.
22			22	A. I'll check into the archives.
23			23	ARBITRATOR CHERNICK: Do you want to
24			24	check your records on that, Mr. Hamman, before you
25			25	answer?
		Page 752		
1	P R O C E E D I N G S			
2	ARBITRATOR FAULKNER: Mr. Hamman, if			
3	you'll come back to the witness stand. Please resume			
4	your examination.			
5	DIRECT EXAMINATION			
6	BY MR. HERMAN:			
7	Q. Mr. Hamman, you and I spoke about Claimants'			
8	Exhibit 10. That's number --			
9	MR. HERMAN: That's slide 5, Russell.			
10	Q. (BY MR. HERMAN) Now, SCA does more than --			
11	does athletic incentives in golf, cycling, skiing,			
12	tennis?			
13	A. Primarily golf and motor sports.			
14	Q. Now, when you -- when you negotiate an			
15	agreement, do you normally ask Mr. Bandy to prepare			
16	the contract?			
17	A. Frequently I do.			
18	Q. Now, it's true, is it not, that you have			
19	never instructed Mr. Bandy to prepare a golf incentive			
20	contract which contains a provision that if titles are			
21	stripped as a result of official action, then sponsor			
22	agrees to refund any payments made?			
23	A. I don't believe I have.			
24	Q. All right. So as of -- as of January 9,			
25	2001, you anticipated a remedy for SCA if the titles			
		Page 754		
1	Q. (BY MR. HERMAN) You're not still			
2	investigating that claim, are you?			
3	A. Well, come to think of it, we might.			
4	Q. In any event, other than Mr. Thorpe, this is			
5	the only one?			
6	A. Well, I don't know.			
7	Q. Well, other than Mr. Thorpe, you can't think			
8	of any title being stripped for any reason other than			
9	some performance enhancing substance; isn't that true?			
10	A. I don't know. I mean, can I think of any off			
11	the top of my head, no.			
12	Q. All right. This document here, which is			
13	Claimants' Exhibit 10, is there any other document			
14	prepared by SCA which would more accurately reflect			
15	the intention of SCA going into this deal prior to the			
16	preparation of your contract?			
17	A. I don't believe so.			
18	Q. You're the one that -- the sole person who			
19	negotiated this deal on behalf of SCA, correct?			
20	A. Correct.			
21	Q. And it's true, is it not, that you intended			
22	for a refund of the money if the titles were stripped			
23	from Mr. Armstrong as a result of official action,			
24	correct?			
25	A. Yes.			

Page 755	Page 757
<p>1 Q. And you know that that's the only way the 2 titles can be stripped; it has to be official action? 3 A. Titles are only stripped by official action, 4 to the best of my knowledge. 5 Q. So that if Mr. Armstrong were the official 6 winner, to ever change that status, it would take 7 official action? That's just a truism, is it not? 8 A. Correct. 9 Q. So it's true as of January 9, 2001 that you 10 made specific provision for precisely what you're now 11 alleging, didn't you? 12 A. I made instructions to make provisions for 13 that. It didn't appear in the contract. 14 Q. And you have done nothing at SCA to petition 15 the only -- to petition the official event governing 16 body to strip Mr. Armstrong of his title? 17 A. Correct. 18 Q. And as of January 9, 2001, you had clearly in 19 your mind precisely what you're now alleging, that is 20 some performance enhancing substance, didn't you? 21 A. Not exactly. 22 Q. Well, what other reason would there be for 23 stripping Mr. Armstrong's title? 24 A. In sports of that nature where performance 25 enhancing drugs are forbidden, there's a possibility</p>	<p>1 A. No. 2 Q. Well, why not? 3 A. We hadn't confirmed the Indiana hospital 4 room. We -- there was much evidence we hadn't yet 5 collected. 6 Q. Well, I thought you told me yesterday that 7 had you known on January 9, 2001 what you knew at the 8 end of September that you would have never entered the 9 deal. 10 A. Those are two different standards. 11 Q. Well, but what I just said was accurate? 12 A. Correct. 13 Q. Okay. Now, you've told -- you pled to this 14 panel that one of the reasons that you say you're 15 entitled to cancel or rescind this contract is because 16 if you had only known then what you know now that you 17 would have never done the deal, so consequently you're 18 entitled to rescind the contract; isn't that what 19 you've told the panel? 20 A. Correct. 21 Q. Well, if you knew enough at the -- actually 22 you knew enough at the beginning of September that you 23 wouldn't have done the deal. 24 A. Correct. 25 Q. So if the basis for your denial of this claim</p>
Page 756	Page 758
<p>1 that a winner's title will be stripped. 2 Q. Exactly. And the remedy for that, you wanted 3 to ensure by telling Mr. Bandy the remedy in the event 4 that his title was stripped, then Tailwind, who you 5 had the contract with, would have to give the money 6 back? 7 A. That was a remedy. 8 Q. Well, that's -- that's precisely what you 9 instructed Mr. Bandy on at the time the contract was 10 entered into? 11 A. That's correct. 12 Q. But you didn't pay the money, you didn't pay 13 the \$5 million, did you? 14 A. We paid the money into the Court. 15 Q. We will talk about that in a minute. You 16 didn't pay the money to the sponsor? 17 A. Correct. 18 Q. Tailwind can't refund the money to you from 19 the Court, can it? 20 A. I don't know. 21 Q. All right. Now, when we quit yesterday, 22 Mr. Hamman -- I'll change topics with you just a 23 little bit. As of the end of September 2004 -- 24 A. Right. 25 Q. -- did you know enough to deny the claim?</p>	<p>1 is that you didn't know certain information which had 2 you known you would have never done the deal, you knew 3 that as early as September 1st? 4 A. No. 5 Q. I thought you just told me if you had known 6 on January 9 what you knew on September 1st, you would 7 have never done the deal. 8 A. The standard for doing a deal and the 9 standard for denying a claim are different. Restate 10 the question so I'm sure that I understand it. 11 Q. Haven't you told the panel that Tailwind 12 didn't disclose certain information to you, that if 13 they had, if you had had any reason to even suspect, 14 that you would have never done this deal? 15 A. That's correct. 16 Q. So that as of September 1st, these matters 17 that you say Tailwind should have disclosed to you, 18 you knew enough of those matters on September 1st to 19 where you wouldn't have done the deal if you had it to 20 do over again? 21 A. We knew enough of some matters on 22 September 1st to know that we wouldn't have done the 23 deal based on those matters. 24 Q. Right. And that's my only point. If you had 25 known on January 9, 2001 what you knew on September 1,</p>

Pages 755 to 758

<p style="text-align: right;">Page 759</p> <p>1 2004, you would have never done the deal on January 9; 2 isn't that what you're saying? That's true, isn't it? 3 A. If we had known certain facts at the time we 4 entered into the deal, we would not have done the 5 deal. 6 Q. And the facts that you knew on September 1 7 would have prevented you from doing the deal. I mean, 8 I think we have already agreed about that. 9 A. That's correct. 10 Q. Okay. So based upon your -- SCA's position 11 before this panel that one of the reasons they're 12 entitled to rescind this contract is because matters 13 weren't disclosed to them which would have prevented 14 SCA from doing the deal, at least -- you knew at least 15 enough of those matters to put you -- to give you 16 suspicion enough as of September 1? 17 A. Not necessarily. 18 Q. Well, didn't you just say that if you had 19 known on September -- on January 9 what you knew on 20 September 1, 2004 you wouldn't have done the deal? 21 A. The facts that we might have known that would 22 enable us not to do the deal were not necessarily the 23 same facts that had been represented by Mr. Armstrong. 24 Q. I don't know that I followed that, and I 25 don't want to be unduly repetitive and I apologize if</p>	<p style="text-align: right;">Page 761</p> <p>1 A. We, in fact, paid the claim into an account 2 and indicated that we were compelled to investigate. 3 Q. Okay. Are you taking the position that your 4 payment of this \$5 million into this account is an 5 indication of your good faith? 6 A. It was to demonstrate that we had the money 7 and we were willing to pay the claim pending the 8 outcome of our investigation. 9 Q. Are you aware that Mr. Compton testified that 10 the investigation is ongoing as we speak here today? 11 A. Information keeps coming to light. 12 Q. Well, is your investigation over or not? 13 A. I would presume it's pretty much over, but 14 additional information keeps popping up. 15 Q. Well, have you decided to deny the claim yet 16 or not? 17 A. Yes. 18 Q. You didn't, as of the time you reached this 19 state of mind, you didn't deny the claim, right? 20 A. As of what date? 21 Q. As of September 1st, let's say. 22 A. We did not deny the claim. 23 Q. As of September 30th, the date we talked 24 about yesterday, the end of September, you didn't deny 25 the claim?</p>
<p style="text-align: right;">Page 760</p> <p>1 I'm not understanding. If you'll indulge me, let me 2 just try to make this clear. 3 A. Okay. 4 Q. As of, let's say, September 1, 2004, you 5 suspected that there might be something up, correct? 6 A. Could you cite a fact that I could comment on 7 that I might be able to say I would or would not have 8 done the deal based on a given fact? 9 Q. Well, let's say -- let's say by September 1 10 you knew that Mr. Armstrong had trained from time to 11 time with Dr. Ferrari. 12 A. By September 1 we knew that he had trained 13 with Dr. Ferrari and that caused us concern, but we 14 also knew that there was a court case pending that we 15 didn't have the results of. 16 Q. Well, let me just -- let me just ask you 17 this, which I think we have resolved this, but if you 18 had known -- let's say that your state of mind, your 19 state of knowledge, everything, your state of 20 understanding, your state of belief on September 1, 21 2004 had been the same on January the 8th of 2001, 22 would you have done the deal or not? 23 A. I would not have. 24 Q. Did you, as of the first of September, deny 25 the claim?</p>	<p style="text-align: right;">Page 762</p> <p>1 A. We didn't deny it. 2 Q. You didn't rescind the contract? 3 A. We had been sued and the -- Tailwind had 4 totally refused to cooperate in any way, shape or form 5 with our investigation, and effectively the process 6 had been hijacked. 7 Q. Okay. So the answer to my question is no, 8 you didn't rescind the contract? 9 A. We did not rescind the contract. 10 Q. Did you petition the UCI or the Tour de 11 France? 12 A. We did not. 13 Q. And you haven't to this day, have you? 14 A. Correct. 15 Q. Once you became aware that CHUBB had paid and 16 that Lloyds had either paid or agreed to pay, did you 17 report Tailwind to the Department of Insurance for 18 perpetrating an insurance fraud? 19 A. We did not. 20 Q. You understand you're a -- 21 A. We didn't have an insurance contract in our 22 belief. 23 Q. Well, did you think CHUBB and Lloyds -- do 24 you think they're insurance companies? 25 A. Yes, I do.</p>

		Page 763			Page 765
1	Q. Well, you knew that -- you knew that Tailwind		1	A. No.	
2	had made a claim and CHUBB and Lloyds had paid. Did		2	Q. So it would have been the 26th that you got	
3	you report them for fraud?		3	the notice of claim from Tailwind through ESIX and you	
4	A. We were in the process of an investigation		4	didn't request any documents or information for	
5	and we did not report them.		5	whatever it is, 35 days up until September 2nd?	
6	Q. Did you notify Prize Indemnity Limited that		6	A. I don't believe we got the notice on the	
7	they had been defrauded on July 26th and repaid the		7	26th, but we got some -- we got some documents in	
8	\$1.2 million that you collected?		8	August.	
9	A. We did not.		9	Q. Well, you got a notice -- you got an e-mail?	
10	Q. Now, let's talk a little bit about this		10	A. We were aware Mr. Armstrong had won the Tour	
11	deposit that you claim or apparently claim illustrates		11	de France.	
12	SCA's good faith. Turn to Exhibit 75, if you will.		12	Q. You had gotten an e-mail from Kelly Price on	
13	Exhibit 75 is your letter of September 2, 2004 where		13	the 26th, did you not?	
14	you demand the full cooperation of not just your		14	A. I don't recall. We --	
15	insured but Lance Armstrong, USPS, Capital Sports		15	Q. Well, you don't dispute it anyway?	
16	Entertainment as well as any related or affiliated		16	A. I don't dispute it.	
17	individuals or entities.		17	Q. Okay. So you didn't ask for any documents	
18	So just along those lines I take it that		18	for -- until September 2.	
19	any individual employed by any of those entities you		19	Now, you deposited \$5 million into a	
20	believe had an obligation to provide information to		20	JPMorgan custodial account on September 3, right?	
21	you?		21	A. Or shortly thereafter, approximately	
22	A. We felt we were entitled to all pertinent		22	September 3.	
23	information.		23	Q. And you said this account -- the account	
24	Q. Well, when you say related or affiliated		24	shall remain in place for a reasonable period of time	
25	individuals, you would obviously be referring to all		25	which shall not be less than 90 days except upon the	
		Page 764			Page 766
1	the employees of those entities, would you not?		1	earlier resolution of this matter. That's what -- I	
2	A. Only those with information.		2	read that correctly, did I not?	
3	Q. Okay.		3	A. I assumed it would take that long to	
4	A. We didn't know who they might be at the time.		4	investigate the matter.	
5	Q. All right. Now, if you turn over to the		5	Q. Okay. So as of September 2, unless the	
6	second page, you mentioned to me yesterday that it was		6	matter was resolved, it was your promise to leave that	
7	your intention to complete this investigation and make		7	money on deposit for 90 days, fair?	
8	a determination whether to pay or not by September 2.		8	A. Yes.	
9	Do you recall that -- September 3, whenever you say		9	Q. Then you got -- SCA received correspondence	
10	the due date was?		10	from me on September 7 demanding payment. I don't	
11	A. We hoped we would be able to.		11	know exactly what that --	
12	Q. And when did -- when did that objective		12	A. Well, I thought your letter was	
13	appear unable to meet?		13	September 8th, but...	
14	A. We -- certainly by the time I wrote the		14	Q. Well, it could have been.	
15	letter it was clear we had not met our objective. I		15	A. But whatever what date.	
16	don't have a specific date in mind that -- but shortly		16	Q. Yeah, September 8, Exhibit 92.	
17	before that it became clear that there would be no		17	A. Okay.	
18	ability to communicate with even Mr. Walsh prior to		18	Q. Now, as of September 8, 2004, had you changed	
19	the due date.		19	your mind about having to pay the money and then if he	
20	Q. Well, can you tell me how long prior to the		20	was stripped of his title to be entitled to it?	
21	date you wrote this letter you came to the realization		21	A. We certainly felt that as of any date if he	
22	that you would not pay as of the due date?		22	were stripped of his title, we would be either not	
23	A. A few days. It seemed very unlikely.		23	obligated to pay or entitled to a refund of any money	
24	Q. Incidentally, prior to September 2, had you		24	paid.	
25	requested any documents or information from Tailwind?		25	Q. Well, those are two pretty different things,	

Pages 763 to 766

<p style="text-align: right;">Page 767</p> <p>1 don't you agree? In the one case you pay the claim 2 pursuant to the contract, which obligates you to pay 3 if he's the official winner, and in the second 4 instance you don't pay. I would say those were two 5 substantially different approaches, wouldn't you?</p> <p>6 A. They're certainly different, but functionally 7 they're very similar during an investigation.</p> <p>8 Q. On September the 10th your company was 9 notified that the claim needed to be made, otherwise 10 arbitration was going to be instituted on the 13th; 11 isn't that true?</p> <p>12 A. Well --</p> <p>13 Q. I'm not referring you to the letter.</p> <p>14 A. Well --</p> <p>15 Q. Do you know whether that's true or not?</p> <p>16 A. There was something to the effect -- was it 17 on your letter of September 8th -- such arbitration 18 will be instituted on Monday, September 13th.</p> <p>19 Q. All right. So you were notified on the 8th 20 that you all knew Mr. Armstrong was the official 21 winner, you knew that that triggered your liability 22 and that you needed to pay the money or arbitration 23 would be instituted as provided under the contract, 24 correct?</p> <p>25 A. We knew that you had made demand to institute</p>	<p style="text-align: right;">Page 769</p> <p>1 A. Correct. 2 Q. And on September the 14th, 2004, a petition 3 was filed in -- in the 298th District Court of Dallas, 4 Texas to request the Court to appoint arbitrators? 5 A. Correct. 6 Q. Thereafter, did SCA object to leaving the 7 \$5 million on deposit? 8 A. We objected to placing it in the registry of 9 the court, I believe, but we did not object to leaving 10 it on deposit. 11 Q. Is that right? Is that right? Is that your 12 position? 13 A. I believe that was the case, that we didn't 14 object to leaving it. 15 ARBITRATOR CHERNICK: I'm sorry, I didn't 16 hear that. 17 A. I believe we did not object to leaving the 18 money at JPMorgan, and I -- I'm not even sure if we 19 objected to moving it to the registry of the court. 20 Q. (BY MR. HERMAN) Look at Exhibit 105. 21 A. Okay. 22 Q. Do you see that? 23 A. Yes. 24 Q. You know that Tailwind asked the Court to 25 prohibit SCA from moving or spending the \$5 million</p>
<p style="text-align: right;">Page 768</p> <p>1 arbitration on the 13th of September. We certainly 2 felt that that would be totally impractical and that 3 we had not done very -- had not been able to 4 accomplish very much in our investigation at that 5 point.</p> <p>6 Q. So when you -- when you and others at SCA 7 claim that you got sued by Tailwind, you're referring, 8 I presume, to Exhibit 98?</p> <p>9 A. Correct.</p> <p>10 Q. And given the focus of your investigation, I 11 take it that as of September 8th when you got my 12 letter you had not been able to accomplish the 13 confirmation of the allegations contained in LA 14 Confidential?</p> <p>15 A. That's correct.</p> <p>16 Q. It was going to take you longer to do that, 17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Now, in the insurance contract it simply says 20 that disputes will be resolved under the Texas 21 Arbitration Act in Dallas, Texas, does it not?</p> <p>22 A. Correct.</p> <p>23 Q. It doesn't say how many arbitrators?</p> <p>24 A. Correct.</p> <p>25 Q. It doesn't say how they're to be selected?</p>	<p style="text-align: right;">Page 770</p> <p>1 account and asked for a temporary injunction in that 2 regard. You don't remember that?</p> <p>3 A. I -- I recall that they wanted to gain 4 control over the money.</p> <p>5 Q. Is that what your -- is that what you think 6 happened?</p> <p>7 A. They wanted -- I believe so.</p> <p>8 Q. Well, it's true, is it not, that Tailwind 9 sought the -- sought -- had to seek an injunction in 10 order to preserve the money in the JPMorgan account; 11 that's precisely what Tailwind asked, was it not?</p> <p>12 A. We had -- not exactly.</p> <p>13 Q. Okay. What's -- just tell me what your best 14 understanding of what it was that Tailwind asked the 15 Court to do by virtue of this injunction.</p> <p>16 A. My understanding is we had agreed to keep the 17 money up for at least 90 days and that that wasn't 18 good enough for Tailwind.</p> <p>19 Q. So you think Tailwind wanted to have it left 20 up for more than 90 days?</p> <p>21 A. I think they wanted to tie the money up.</p> <p>22 Q. What do you mean tie the money up?</p> <p>23 A. It ended up being placed in the registry of 24 the court and that was satisfactory to Tailwind.</p> <p>25 Q. Well, you know, Mr. Hamman, that Tailwind had</p>

<p style="text-align: right;">Page 771</p> <p>1 to file a request for temporary injunction so that SCA 2 wouldn't take the money out of the account and spend 3 it or do whatever they wanted to do with it? 4 A. I don't believe there's any evidence that 5 they had to. 6 Q. Pardon me? 7 A. We had agreed to put the money up for at 8 least 90 days. 9 Q. Well, it's true, is it not, that when 10 Tailwind asked the -- asked SCA to leave the money in 11 the JPMorgan account they refused, SCA refused? 12 A. I don't recall that. We had indicated that 13 we were going to leave it there for 90 days, so I 14 don't see that that's consistent with refusing to keep 15 the money in the account. 16 Q. Did Mr. Compton tell you that he told Judge 17 Canales in open court that they didn't -- that SCA 18 didn't have to put the money up in the first place and 19 they ought to be entitled to take it if they want to, 20 before he took the wrapper out of the trash can? 21 MR. TILLOTSON: Well -- 22 MR. HERMAN: I'm sorry, I'll withdraw 23 that. 24 MR. TILLOTSON: Thank you. 25 MR. HERMAN: Okay.</p>	<p style="text-align: right;">Page 773</p> <p>1 tells the Court -- at the bottom paragraph there -- 2 that Exhibit A to the agreement, which I believe you 3 have described as the meat and potatoes of the 4 agreement, reiterates the point stating SCA Promotions 5 agrees to reimburse sponsor for the full amount of any 6 performance awards scheduled hereunder. And 7 thereafter SCA specifically admits that it has an 8 obligation to reimburse Tailwind if Tailwind became 9 obligated to pay the performance incentives. 10 ARBITRATOR LYON: What is that exhibit, 11 please? 12 MR. HERMAN: That's 106. 13 THE WITNESS: 106, sir. 14 Q. (BY MR. HERMAN) Isn't that right? 15 A. We were objecting to paying the money into 16 the registry of the court, that is correct. 17 Q. But isn't what I just told you or asked you 18 correct, that is, you -- SCA specifically tells Judge 19 Canales that it has an obligation to reimburse 20 Tailwind if Tailwind becomes obligated to pay the 21 professional incentives? 22 A. It carves out certain provisions of the 23 contract to illustrate that obligations could arise 24 under the contract. 25 Q. Okay.</p>
<p style="text-align: right;">Page 772</p> <p>1 Q. (BY MR. HERMAN) Do you know whether 2 Mr. Compton represented that to Judge Canales or not? 3 A. I -- I don't recall seeing that statement, 4 but I don't know. 5 Q. Well, look at Exhibit 106, if you would. 6 A. Okay. 7 Q. 106 is entitled SCA Promotions, Inc.'s; 8 Response and Objection to Plaintiff's Request for 9 Temporary Injunction, correct? 10 A. Correct. 11 Q. On the first page of that SCA tells the Court 12 despite pleading an ordinary claim, Plaintiffs seek an 13 extraordinary writ of this court, injunctive relief 14 requiring Defendant to maintain the full amount of the 15 disputed claim to be held in the registry of the 16 court, and then throughout the 14-page pleading 17 demonstrated why SCA ought to not have to do that. 18 A. We had committed to leaving the money in the 19 JPMorgan account for at least 90 days. 20 Q. But in answer to my question, on October 21 the 18th, which is approximately 45 days after your 22 letter, you're objecting vigorously to leaving the 23 money in the registry of the court at all, aren't you? 24 A. Yes. 25 Q. Now, look at page 6 of Exhibit 106. SCA</p>	<p style="text-align: right;">Page 774</p> <p>1 A. We were not -- I don't believe that the 2 purpose of the -- this particular thing was to 3 adjudicate the contract at that point. 4 Q. Well, you wouldn't tell Judge Canales 5 something that wasn't true, would you? 6 A. We were citing the contract with respect to 7 dealing with the -- the requirement to put money in 8 the registry of the court. 9 Q. Well, would your interpretation of the 10 contract be different if you were talking about 11 putting money in the registry of the court as opposed 12 to having to pay the money to your insured? Would you 13 change your interpretation somewhere? 14 A. I don't think that, again, this is even the 15 same issue. The issue was simply should we put the 16 money in the registry of the court. We were not 17 attempting to adjudicate the contract at that point. 18 Q. At the time this pleading was filed, October 19 18th, the money was already in the registry of the 20 court, wasn't it? 21 A. I don't know if it was in there or -- I 22 guess -- I don't know the date that it was transferred 23 from JPMorgan to the registry of the court. 24 Q. Well, if you'll look at Exhibit 105, you will 25 see that there was an agreement to put it in the</p>

<p style="text-align: right;">Page 775</p> <p>1 registry of the court pending our request that you all 2 retain the money in our temporary injunction. Do you 3 see that, October 4?</p> <p>4 A. We don't dispute that we did not want the 5 money in the registry of the court.</p> <p>6 Q. Okay. Well, in answer to my question, 7 though, the money had been in the registry of the 8 court for two weeks prior to the time SCA told Judge 9 Canales everything that's set forth in Exhibit 106; 10 that's true, isn't it?</p> <p>11 A. I believe we were objecting to the order. At 12 that point I don't know if there had even been an 13 order. We maybe voluntarily put it in pending the --</p> <p>14 Q. Pending your request to take control of the 15 money?</p> <p>16 A. Pending the request to put the money in an 17 account with JPMorgan.</p> <p>18 Q. All right. If you would turn to Exhibit 106 19 again, please, if you would look at page 5 at the 20 bottom -- well, the middle.</p> <p>21 A. Exhibit 106, page 5?</p> <p>22 Q. Yes, sir. I'm sorry.</p> <p>23 A. Okay.</p> <p>24 Q. Do you have it there, page 5?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 777</p> <p>1 Q. No, no. I mean that only SCA -- SCA 2 contracted only with Tailwind and as to SCA, only 3 Tailwind had rights, duties and obligations under that 4 agreement?</p> <p>5 A. Where are you --</p> <p>6 Q. No, I'm asking you if that's --</p> <p>7 A. Well, I don't know.</p> <p>8 Q. Okay. Now, turn to Claimants' Exhibit 38, 9 please, sir. You have made a claim in this case that 10 the publication of Exhibit 38 disparaged SCA. That 11 constitutes business disparagement or defamation or 12 some such, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Let's go through Exhibit 38 for a -- for a 15 moment.</p> <p>16 A. Okay.</p> <p>17 Q. Is there anything in the -- well, strike 18 that.</p> <p>19 Let me look. I can't -- it's a little 20 bit difficult to read. Is there anything in 21 paragraph 1, which you say harmed SCA?</p> <p>22 A. No.</p> <p>23 Q. Is there anything in paragraph 2 that is 24 either untrue or harmed SCA?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 776</p> <p>1 Q. Now, item B there in bold, SCA repeatedly 2 takes the position that contract 31122 is not an 3 insurance contract, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And at the bottom of the page there you 6 represent to Judge Canales and to Tailwind that this 7 is not insurance?</p> <p>8 A. Correct.</p> <p>9 Q. You represented that you were not in the 10 business of insurance?</p> <p>11 A. That's correct.</p> <p>12 Q. You've repeatedly represented that, have you 13 not?</p> <p>14 A. Yes.</p> <p>15 Q. To Tailwind and others?</p> <p>16 A. Yes.</p> <p>17 Q. Do you represent that today?</p> <p>18 A. We do not feel we are in the business of 19 insurance.</p> <p>20 Q. Do you have -- or did you represent to -- to 21 Judge Canales and to Tailwind that it was only 22 Tailwind that had any rights, duties or obligations 23 under this contract 31122?</p> <p>24 A. I don't believe that we represented that we 25 might not have any obligations under the contract.</p>	<p style="text-align: right;">Page 778</p> <p>1 Q. Is there anything in paragraph 3 that harmed 2 SCA?</p> <p>3 A. Harmed or was untrue?</p> <p>4 Q. Well, I'm going to ask you the second 5 question in a minute.</p> <p>6 A. Paragraph 3, yes.</p> <p>7 Q. Okay. What was it in paragraph 3 that harmed 8 SCA?</p> <p>9 A. The categorization and the tone of the 10 statement of the investigation was phrased in such a 11 way as to impugn SCA's integrity.</p> <p>12 Q. Are you talking about the last sentence of 13 paragraph 3?</p> <p>14 A. The investigation, in quotes, the general 15 tenor.</p> <p>16 Q. Was there anything in that sentence that's 17 untrue?</p> <p>18 A. The implication is that we were not entitled 19 to an investigation.</p> <p>20 Q. Getting back to my question, is there 21 anything in that sentence that's untrue?</p> <p>22 A. No.</p> <p>23 Q. Now, as I understand --</p> <p>24 A. Well, in that sentence?</p> <p>25 Q. In the last sentence.</p>

Page 779	Page 781
<p>1 A. In the last sentence, that is not true -- I 2 mean, that is a correct statement. 3 Q. Now, as I understand it, you take issue with 4 the other sentence in there that says two other 5 companies, CHUBB and Lloyds, promptly sent payment 6 along with congratulations and kudos to Lance; is that 7 right? 8 A. We are certainly aware Lloyds had not paid. 9 Q. Were you aware that Lloyds had confirmed and 10 unconditionally acknowledged its obligation to pay on 11 September the 2nd? 12 A. That's not what the sentence says. 13 Q. No, I know that, but I was asking you, you 14 know now, do you not? 15 A. I know that they had committed to pay as of 16 September 2nd. 17 Q. Okay. And was there any concern in your view 18 among the public or in the industry that Lloyds would 19 be unable to pay the two and a half million dollars 20 that they insured? 21 A. I believe the syndicate in question was in 22 run-off mode, which is the equivalent of receivership, 23 so I don't know. 24 Q. Well, are you in possession of any 25 information that as of September 2, 2004, upon the</p>	<p>1 that. 2 Is there anything in the next paragraph 3 that is untrue? 4 A. The implication is that these are test 5 results when, in fact, they're merely the manual 6 regarding the testing. 7 Q. Well, is -- did -- you all did get the actual 8 testing protocols, did you not? 9 A. We got -- 10 Q. The manual? 11 A. We got the manual. We did not get test 12 results. The implication is that these are test 13 results. 14 Q. So you draw -- you infer from the description 15 of testing protocols to mean testing results? 16 A. No, I think it was intended to mislead. 17 Q. But that's true, you got the testing 18 protocols, didn't you? 19 A. We got the manual. The manual is publicly 20 available on the web site. 21 Q. Okay. Now, is there anything untrue in the 22 next paragraph? 23 ARBITRATOR FAULKNER: That starts out 24 what? 25 Q. (BY MR. HERMAN) That says I confirm that</p>
<p style="text-align: right;">Page 780</p> <p>1 commitment from Lloyds to pay that there was any 2 concern about actually getting paid? 3 A. I wasn't aware of any. 4 Q. Okay. Now, in the next paragraph is there 5 anything in there that you claim is untrue? 6 A. At the time it was certainly contended -- it 7 was contested that there -- the validity of Lance's 8 victory, I think there was question about it. 9 Q. So you draw a distinction between validity 10 and official? 11 A. Yes. 12 Q. Okay. But you do agree that obviously he had 13 been confirmed as the winner, correct? 14 A. Correct. 15 Q. The last sentence there, that's true, isn't 16 it? 17 A. Except for the word insurance. At the time 18 there certainly had been no ruling that we were, in 19 fact, insurance and -- 20 Q. Okay. Did that hurt SCA? 21 A. No. The term insurance, probably not. 22 Q. Is there anything untrue in the next 23 paragraph? 24 A. I believe that's the correct quote. 25 Q. Okay. Now, I take it that -- well, strike</p>	<p style="text-align: right;">Page 782</p> <p>1 Mr. Lance Armstrong was tested. 2 A. We got a cut and paste in an e-mail from 3 Kelly Price. We got no letter from Christian Varin. 4 Q. Well, Ms. Price pasted Mr. Varin's e-mail 5 onto her e-mail and you were provided the information 6 that is quoted there in that paragraph, were you not? 7 A. That is correct that that was the paragraph 8 that was cut and pasted. 9 Q. Okay. Now, is it true that SCA demanded free 10 and unlimited access to every medical record and 11 medical provider of Mr. Armstrong, his complete 12 medical history, all records of his past bonus 13 awards -- incidentally, what relevance to your 14 consideration of your liability were Mr. Armstrong's 15 past bonus awards? 16 A. We wanted to see what other companies had 17 been subjected to the same type of proposition that we 18 had. 19 Q. Why? What did that have to do with 20 determining whether you owed the money or not? 21 A. We felt that we needed information in order 22 to evaluate the -- 23 Q. What would it be in someone else's contract 24 to which SCA was not a party and which was no longer 25 in force, what is it that you say you would need to</p>

Pages 779 to 782

<p style="text-align: right;">Page 783</p> <p>1 look at to evaluate whether SCA was responsible under 2 its contract?</p> <p>3 A. We weren't sure.</p> <p>4 Q. Well, what were you looking for?</p> <p>5 A. Again, we weren't sure.</p> <p>6 Q. So you were fishing?</p> <p>7 A. We were fishing in that area.</p> <p>8 Q. Right. But you -- so you had nothing in mind 9 specifically, correct?</p> <p>10 A. We would look to see if there had been any representations.</p> <p>12 Q. Why would representations of someone else 13 make any difference in the enforcement of your 14 contract?</p> <p>15 A. The issue involved is did Mr. Armstrong cheat 16 to win, and we weren't sure what other companies may 17 have found out or looked at, and frankly, we were 18 investigating a claim. There were serious allegations 19 and we didn't know where relevant information might 20 exist.</p> <p>21 Q. There would be nothing in someone else's 22 contract that would tell you whether you owed the 23 claim or not, would there?</p> <p>24 A. It might indicate whether or not they had 25 done an investigation. It might indicate if something</p>	<p style="text-align: right;">Page 785</p> <p>1 indicate that perhaps we should pay, but generally -- 2 Q. So the absence of any record in 3 Mr. Armstrong's medical records would have been 4 persuasive that you should pay, then; is that what 5 you're saying?</p> <p>6 A. No, I'm saying it would be an indication. We 7 were investigating a claim.</p> <p>8 Q. Okay. Tell me what else is in there that 9 would be good news for Tailwind in the -- in getting 10 their money.</p> <p>11 A. We knew that it was Tailwind's position that 12 there was nothing amiss. And the question is, was 13 there a problem in the case, and Mr. Galloway was 14 hired to find out if there was a problem.</p> <p>15 Q. He was hired to further your objective of 16 confirming the allegations in David Walsh's book; 17 isn't that true?</p> <p>18 A. He was hired to identify if there were -- he 19 was hired to gather evidence that would --</p> <p>20 Q. Confirm?</p> <p>21 A. If he was able to locate the evidence, that 22 would confirm --</p> <p>23 Q. Mr. Walsh's allegations?</p> <p>24 A. -- the allegations.</p> <p>25 Q. All right. Let's continue. If you would</p>
<p style="text-align: right;">Page 784</p> <p>1 existed that for one reason or another they determined 2 to pay a claim, and that might help us conclude to 3 either pay or deny the claim.</p> <p>4 Q. Well, by that time, of course, you had 5 already retained Mr. Galloway for the purpose of 6 digging up as much dirt as possible?</p> <p>7 A. We retained him for the purpose of assisting 8 us in investigating the claim.</p> <p>9 Q. Is there anything that you requested of 10 Mr. Galloway to recover that would not be dirt in the 11 pejorative phrase that -- in the pejorative sense that 12 I'm using? Can you point to anything that you asked 13 Mr. Galloway to find that would confirm coverage and 14 your obligation to pay?</p> <p>15 A. It would -- well, let me look at his letter. 16 What exhibit is it?</p> <p>17 Q. 69.</p> <p>18 A. Exhibit 69. The absence certainly in the 19 medical records.</p> <p>20 Q. Would that be on the second page?</p> <p>21 A. It might well have indicated that there was 22 no -- that doctors hadn't questioned him about the 23 drugs. The absence of information that -- any of the 24 information and the absence of information supporting 25 the allegations made in Mr. Walsh's book would tend to</p>	<p style="text-align: right;">Page 786</p> <p>1 turn back to Exhibit 38. Look at the last paragraph. 2 Do you know whether the SCA web site represented that 3 the concept behind the performance coverage is simple: 4 Offer a professional athlete a cash bonus for an 5 outstanding performance. When the athlete meets the 6 stated mark, SCA funds the bonus in full and promptly. 7 A. I'm sure that was on the web site. 8 Q. But you didn't pay the bonus either in full, 9 in part or promptly, did you? 10 A. We did not pay it to Tailwind. 11 Q. Now, if you would look at -- 12 MR. TILLOTSON: Mr. Herman, if you're 13 going to move to another exhibit, let's take a short 14 rest room break. 15 MR. HERMAN: Oh, sure, sure, sure. I'm 16 on the last ten minutes, then I'll be through. 17 ARBITRATOR LYON: You said yesterday 18 about 30 minutes. 19 MR. HERMAN: I know. I know. 20 THE COURT: We will take a ten-minute 21 break now, Jeff, and then we'll resume. 22 (Recess 10:08 a.m. to 10:22 a.m.) 23 ARBITRATOR FAULKNER: Mr. Hamman, you're 24 still under oath. Please proceed. 25 Q. (BY MR. HERMAN) I don't know precisely what</p>

Pages 783 to 786

<p style="text-align: right;">Page 787</p> <p>1 exhibit number that is, but it's the Lloyds policy in 2 any event. You've seen that before, you saw it in the 3 earlier hearing, did you not? 4 A. Correct. 5 Q. Okay. Now, we talked a little bit about 6 this. The risk here or the interest described is 7 pretty much the same, that is, if Lance Armstrong is 8 the official winner of the Tour de France in those 9 four years, then Lloyds is obligated to pay two and a 10 half million dollars, agreed? 11 A. Correct. 12 Q. And do you see the warranties there? 13 A. Yes. 14 Q. Subject to the rules of the UCI, et cetera. 15 Do you see that? 16 A. Yes. 17 Q. Number 3, it says warranted that this 18 coverage is subject to the terms provided by SCA? 19 A. Correct. 20 Q. Now, this policy, subject to the terms 21 provided by SCA as well as the other items under 1 22 and 2, the full proceeds of this policy were paid by 23 Lloyds, correct? 24 A. Lloyds paid -- I believe they did. 25 Q. And even though their coverage is subject to</p>	<p style="text-align: right;">Page 789</p> <p>1 and intentionally, aren't you? 2 A. Yes. 3 Q. And you have not changed despite the rulings 4 of this panel, correct? 5 A. That's correct. 6 Q. And the terms of at least the template 7 here -- I think we have already been through that, I 8 don't want to go through that again -- is precisely 9 the same as those in the contract that's at issue 10 here? 11 A. I haven't compared them. I will accept your 12 representation that they are. 13 Q. And it was SCA that insisted that disputes be 14 subject to the Texas Arbitration Act? 15 A. Correct. 16 Q. And we're operating under the Texas 17 Arbitration Act? 18 A. Correct. 19 Q. This contract, 31122, has been determined to 20 be a contract of insurance. 21 A. In this case. 22 Q. Okay. You've done nothing to change this 23 template of your contingent prize contract or to 24 change the terms or to advise the public that it is 25 insurance?</p>
<p style="text-align: right;">Page 788</p> <p>1 not only additional terms that aren't found in the SCA 2 policy, but subject to the terms in the SCA policy, 3 correct? 4 A. Yes. 5 Q. So if anything, the terms or the 6 preconditions for liability on the part of Lloyds were 7 more stringent than those found in the SCA policy, 8 correct? 9 A. They were greater to or equal than (sic). 10 Q. Look at Exhibit 111 again, if you don't 11 mind. If you see there in paragraph 1 it says this is 12 not an insurance policy and SCA is not an insurance 13 company? 14 A. Correct. 15 Q. That's still in your contingent prize 16 indemnification contracts, isn't it? 17 A. Correct. 18 Q. You're still representing that you're not in 19 the business of insurance? 20 A. That's correct. 21 Q. You're still representing that your clients 22 or your insureds don't have the rights of insureds 23 under the Texas Insurance Code? 24 A. That's correct. 25 Q. You're still -- you're doing that knowingly</p>	<p style="text-align: right;">Page 790</p> <p>1 A. Correct. 2 Q. To the contrary, you're advising the public 3 that it's not insurance? 4 A. Correct. 5 Q. And you've continued to do that since this 6 panel ruled on December the 2nd? 7 A. Correct. 8 Q. And you don't have any intention of changing 9 it either, do you? 10 MR. TILLOTSON: I'm going to object to 11 this line of questioning to the panel. I don't see 12 how a claim can be based off this panel's ruling in 13 this proceeding. So I object that this is irrelevant 14 and not material to his claims. 15 ARBITRATOR FAULKNER: Any response? 16 MR. HERMAN: The issue here in a bad 17 faith case, Your Honor, is the knowing and intentional 18 conduct having insisted that they be subject to the 19 jurisdiction of this panel and their conduct, having 20 received the ruling from the panel on precisely the 21 same contract terms, is relevant to determine whether 22 or not their conduct has been knowingly and 23 intentionally misleading not only to Tailwind but the 24 public. 25 MR. TILLOTSON: If I just may briefly</p>

Pages 787 to 790

<p style="text-align: right;">Page 791</p> <p>1 reply. I don't see how they can base a bad faith 2 claim off of conduct that's happened over the last two 3 weeks, specifically when this panel's order said that 4 its ruling applied to this case and this case only. 5 It is no precedential value. So then to claim that 6 there's evidence of bad faith and my clients had to 7 change their form contracts over the last three weeks 8 in light of this panel's ruling to me is either not 9 evidence of bad faith or certainly can't form the 10 basis of any claim they have in this proceeding.</p> <p>11 ARBITRATOR CHERNICK: It effectively 12 denies the respondent the right to seek whatever court 13 review they're entitled to with respect to preliminary 14 and final rulings in this proceeding.</p> <p>15 MR. TILLOTSON: Certainly there's the 16 possibility of appeal of any order of this panel or 17 other litigation that would deal with that particular 18 insurance issue.</p> <p>19 ARBITRATOR LYON: Well, he's already 20 answered the question. The question is has he 21 knowingly and intentionally done something. He's 22 already said yes.</p> <p>23 ARBITRATOR FAULKNER: Gentlemen, I'm 24 going to rule and sustain the objection. The language 25 that was put in that decision was put there for a very</p>	<p style="text-align: right;">Page 793</p> <p>1 to deny the claim? 2 A. I don't know. 3 Q. Can you point to anything, any notification 4 to Tailwind of alleged misrepresentations prior to the 5 time you guys filed your pleadings in this case? 6 A. I would have to review many documents. 7 Q. So you don't know of any, but there may be 8 some; is that what you're saying? 9 A. I believe that Mike Lynn's statements in 10 December constituted a denial. 11 Q. And what were those statements? 12 A. I don't have them in front of me. 13 Q. Were those statements that Mr. Tillotson 14 referred to yesterday in court in Dallas? 15 A. I believe so. 16 Q. So that after your decision was final as of 17 December 10, much like Mr. Tillotson's recent 18 argument, nothing that came to -- nothing that came to 19 mind or to your knowledge after December 10, 2004 20 contributed to your decision to deny the claim which 21 was final as of December 10, 2004, correct? 22 A. We received additional information which 23 reinforced my position. Effectively, we believed then 24 and believe now that the -- the arbitration process 25 preempted anything we did, that effectively the</p>
<p style="text-align: right;">Page 792</p> <p>1 specific purpose. It means exactly what it says. If 2 you want to ask him about past practice, please have 3 at it.</p> <p>4 And I note also that your exhibit up 5 there, I think, has a 2001 date, so our ruling was 6 only about two weeks ago.</p> <p>7 MR. HERMAN: Right.</p> <p>8 ARBITRATOR FAULKNER: Please proceed.</p> <p>9 MR. HERMAN: Thank you.</p> <p>10 Q. (BY MR. HERMAN) Mr. Hamman, when -- can you 11 tell us, sir, what date, as close as you can, that you 12 determined to deny this claim?</p> <p>13 A. It was sometime after we had talked to the 14 Andreus and had received the English translation of 15 the Italian. Probably December sometime. Probably at 16 the time -- by the time Mike Lynn had --</p> <p>17 ARBITRATOR FAULKNER: Could you speak up, 18 Mr. Hamman. I can't hear you.</p> <p>19 A. At the time Mike Lynn had communicated that 20 we had determined to deny the claim.</p> <p>21 Q. (BY MR. HERMAN) That's December 2004?</p> <p>22 A. That would have been -- yeah, December 2004.</p> <p>23 Q. You would agree that it was not until April 24 of 2005 that you informed Tailwind of the alleged 25 misrepresentations upon which you based your decision</p>	<p style="text-align: right;">Page 794</p> <p>1 arbitrators -- the arbitration was in charge and that 2 we were dealing with that rather than tabling it.</p> <p>3 Q. So did you think because the arbitration 4 clause had been invoked that you were prohibited from 5 paying the claim?</p> <p>6 A. We were not prohibited from paying the claim.</p> <p>7 Q. My question is this, your decision to deny 8 the claim was final on December 10; that's exactly 9 what you just said, was it not?</p> <p>10 A. I didn't say December 10. I said sometime in 11 December. It believe it was later in December.</p> <p>12 Q. Of 2004?</p> <p>13 A. We certainly could have obtained evidence 14 that would have convinced us to pay the claim post 15 December 2000.</p> <p>16 Q. But my question, and I think you've answered 17 it fairly, you said that the definitive decision not 18 to pay the claim was made in December 2004; isn't that 19 true?</p> <p>20 A. We believed -- partially. We believed that 21 there was sufficient basis as of December 2004 to deny 22 the claim.</p> <p>23 Q. Is that -- I asked you when your decision was 24 made to deny the claim and you said whenever -- at 25 about the time Mr. Lynn said you were going to deny</p>

Pages 791 to 794

Page 795

1 it; is that right or not?

2 A. We believed that Mr. Lynn's statements
3 constituted a denial of the claim.

4 Q. All right. So that those statements have
5 never been retracted by SCA or disavowed in any way,
6 have they?

7 A. Not to my knowledge.

8 Q. All right. So that as of whatever date it
9 was that Mr. Lynn stood up in court and said that you
10 all were going to deny the claim, SCA has never taken
11 a contrary position since that date?

12 A. I don't believe we have.

13 Q. And those comments, as I understood
14 Mr. Tillotson yesterday, were designed to give notice,
15 formal notice, to Tailwind that you were not going to
16 pay the claim. Do you agree or disagree with
17 Mr. Tillotson's comment?

18 A. I don't really know whether to agree or
19 disagree. I had not reviewed them.

20 Q. Well, assume with me that Mr. Tillotson stood
21 up and told this panel yesterday that the unequivocal
22 notice of denial of the claim was made by Mr. Lynn in
23 open court on December -- whatever December --
24 whatever date in December 2004.

25 A. Well --

Page 797

1 Q. (BY MR. TILLOTSON) And, Mr. Hamman, you have
2 a set right there. Let me provide you with this.

3 Now, Exhibit -- Respondent's Exhibit 83 is a
4 newspaper article from July 20th, 1998 from the
5 Toronto Star newspapers. And I'm going to begin by
6 having you acknowledge the obvious. I take it you
7 probably don't read on a regular basis, if ever, the
8 Toronto Star newspapers.

9 A. Certainly not on a regular basis. I've been
10 to Toronto from time to time.

11 Q. Okay.

12 MS. BLUE: Do you have another copy for
13 this side of the table?

14 MR. TILLOTSON: I don't, but I'll allow
15 you to use mine.

16 MS. BLUE: Thank you.

17 Q. (BY MR. TILLOTSON) Now, the purpose of this
18 newspaper article is not to prove you read it, but to
19 really more look at some of the contents in it to
20 address your testimony to the panel on a couple of
21 issues. This article is from 1998 and discusses the
22 Festina scandal. Do you have knowledge as to what the
23 Festina scandal is?

24 A. Yes, sir.

25 Q. Were you aware of the concept or the general

Page 796

1 Q. Do you agree or disagree with that?

2 A. I would agree with that.

3 Q. And whatever information that you had or SCA
4 based that decision on was within its possession and
5 knowledge as of whatever date Mr. Lynn stood up and
6 denied the claim; isn't that true?

7 A. We had what we believed was sufficient
8 information to deny the claim as of that date.

9 Q. So the answer is yes?

10 A. Yes.

11 Q. Thank you. I'll pass the witness.

12 ARBITRATOR FAULKNER: Okay.

13 Mr. Tillotson.

14 CROSS EXAMINATION

15 BY MR. TILLOTSON:

16 Q. Okay, Mr. Hamman, I want to begin by passing
17 out a news article which is not part of our exhibits,
18 but we'll mark as Exhibit 83, if I could.

19 MR. HERMAN: Exhibit what?

20 MR. TILLOTSON: 83.

21 ARBITRATOR FAULKNER: Have you given it
22 to opposing counsel?

23 MR. TILLOTSON: I'm doing it right now.

24 Exhibit 83. And our exhibits that we are going to use
25 are with these that are blue.

Page 798

1 notice of the Festina scandal prior to the time you
2 entered into a contract with Tailwind? Had you heard
3 of it?

4 A. Sure.

5 Q. What is it -- if you can put us back in time
6 in the 2001 time period -- what is it you knew or
7 understood the Festina scandal in cycling was about or
8 meant?

9 A. The Festina scandal was related to -- well,
10 it was triggered by Willy Vogt with a -- I believe it
11 was a Volkswagen full of performance enhancing drugs
12 as he crossed the border from Belgium into France and
13 he had a very substantial amount of drugs in his
14 possession at that time, and that started the -- the
15 process.

16 Q. Prior to you entering into the contract with
17 Tailwind, were you generally aware that there existed
18 a problem, an issue, a concern with the use of
19 performance enhancing drugs and professional cycling?

20 A. Yes.

21 Q. Now, if you'll see in there -- let me direct
22 your attention, there is a quote from Mr. Gorski. Do
23 you see that?

24 A. Right.

25 Q. Do you know who Mr. Gorski is?

<p style="text-align: right;">Page 799</p> <p>1 A. Yes. 2 Q. And do you know who Mr. Gorski was in the 3 2001 time period, what his role was? 4 A. He was the -- at the time we entered into the 5 contract he was the operational head of Disson Furst, 6 or we believed he was. 7 Q. Now, the article under his quote says that 8 Mr. Gorski insisted the team is clean. Do you see 9 that? 10 A. Correct. 11 Q. Now, what does it mean to you? Do you have 12 any understanding when someone in the sport says that 13 a rider or team is clean? 14 A. It means they don't take performance 15 enhancing drugs. 16 Q. Did you have that understanding, that is, 17 when someone says they're clean, back before you 18 entered into this Tailwind contract? 19 A. Yes. 20 Q. Now, I believe we've established, and I won't 21 go over that, that SCA entered into a contract with 22 Tailwind in the first part of 2001; is that right? 23 A. Yes. 24 Q. And that's the contingent contract we have 25 seen and been litigating in this case?</p>	<p style="text-align: right;">Page 801</p> <p>1 mind? How is it you believed Mr. Armstrong was a 2 clean rider? 3 A. Every article that I read regarding 4 Mr. Armstrong's achievements where the issue of drugs 5 was mentioned, there was invariably a statement 6 attributed to Mr. Armstrong to the effect that he did 7 not use drugs, had no tolerance for it and was 8 generally in a position of condemning the use of 9 drugs. 10 Now, with respect to your state of mind 11 when you entered into the contract, did it matter if 12 Mr. Armstrong had used drugs, say, in the past, '92, 13 '93, '89 as a junior, when you entered into this 14 contract? 15 A. If he knowingly used drugs in the past, we 16 certainly would have felt it's much more likely that 17 he would use drugs in the future, and that all his 18 statements were incorrect, so basically we wouldn't 19 have touched the deal. 20 Q. Okay. Now, you know and are aware of the 21 training routines used by Mr. Armstrong. You've heard 22 of that, haven't you? 23 A. Well, we are now. 24 Q. And you know and you don't disagree that he 25 doesn't belong to the ranks of being a great athlete,</p>
<p style="text-align: right;">Page 800</p> <p>1 A. Correct. 2 Q. Was it important to you when SCA entered into 3 that contract with Tailwind that Mr. Armstrong was a 4 clean rider? 5 A. Yes. 6 Q. Why? 7 A. Because if he was cheating, he would have -- 8 we wouldn't be able to quantify the risk. He would 9 have an unfair advantage over riders who were not 10 doping, and we certainly had no means or knowledge or 11 any basis whatsoever to evaluate whose drugs are 12 better. We simply wouldn't have gotten involved. 13 Q. Now, let's go back to the 2001 time period 14 before you entered into the contract. What was your 15 state of mind regarding Mr. Armstrong being a clean 16 rider when you entered into this contract? 17 A. We believed he was clean. 18 Q. You say we, but would you agree -- 19 A. We being SCA. I believed he was clean. 20 Q. Because it was -- from SCA's perspective it 21 was ultimately up to you, was it not? 22 A. Certainly. 23 Q. All right. Now, how -- you've told us what 24 your state of mind was and what your beliefs were. My 25 question is how is it that you developed that state of</p>	<p style="text-align: right;">Page 802</p> <p>1 do you? 2 A. We -- that sort of statement has been made. 3 Q. So why would it matter to you when entering 4 into a contract with Tailwind in 2001, knowing 5 Mr. Armstrong's ability as an athlete, why would it 6 matter to you whether he had ever used a performance 7 enhancing drug, six, eight, nine years before then? 8 A. If somebody uses -- if somebody cheats, they 9 tend to continue cheating, and that's in virtually 10 every sport. 11 Q. Now, if you had known in 2001 before entering 12 this contract that Mr. Armstrong during the course of 13 his career at some point had not been a clean rider, 14 would you have entered into this contract? 15 A. No. 16 Q. Let's talk about the due diligence you 17 actually did prior to entering into this contract if 18 we could and I want to direct your attention to -- 19 before we move on to my exhibits, Claimants' 20 Exhibit 5. And if you'll get that in front of you. 21 Now, we have gone over this, but just to 22 orient everyone this Claimants' Exhibit 5 is an e-mail 23 sent by you with your analysis of the pricing and the 24 odds of the Tailwind contract; is that fair? 25 A. Correct.</p>

Pages 799 to 802

<p style="text-align: right;">Page 803</p> <p>1 Q. And the people at the top that it's to, 2 Mr. Lorenzo and Kathleen Ruggiano at Swiss Re; is that 3 fair? 4 A. Correct. 5 Q. Okay. And the purpose of sending it to 6 Mr. Lorenzo was what? Why does he need to know this? 7 A. He needs to know our thinking as to what our 8 appraisal of the odds on the case were. 9 Q. If you'll turn the page, and I think it's 10 been previously established that what we are looking 11 at here is sort of a lengthy spreadsheet -- 12 A. Correct. 13 Q. -- that carries on; is that right? 14 A. Yes. 15 Q. Okay. And, Mr. Hamman, give us a peek into 16 your world for a change. When you enter into these 17 contracts, you think about whether or not you want to 18 take on this risk. Do you literally just try and 19 figure out what the odds are of the event occurring? 20 A. We try to determine what the odds are of the 21 event occurring, certainly, before submitting it to 22 Swiss Re. Any information we had about the situation 23 that might have a bearing on the outcome we would 24 communicate to Swiss Re. 25 Q. Now, I don't see -- I've seen the odds and we</p>	<p style="text-align: right;">Page 805</p> <p>1 reason to believe, strong belief that allegations 2 regarding Mr. Armstrong and the use of drugs were 3 true, would your analysis as you give it here today 4 and your willingness to enter the contract vary or 5 change? 6 A. We would not have done the deal, because we 7 would have believed there was a strong probability 8 that he would cheat and use the PEDs going forward. 9 Q. Now, this goes to Mr. Lorenzo, this meaning 10 this e-mail, and Mr. Lorenzo on behalf of Swiss Re 11 agreed to accept some risk; is that right? 12 A. Yes, a lot of risk. 13 Q. Did you talk with Mr. Lorenzo about 14 Mr. Armstrong and performance enhancing drugs and the 15 possibility of performance enhancing drugs? 16 A. Did not. 17 Q. Why not? 18 A. Didn't believe he used them. 19 Q. Now, once you had agreed to accept the 20 arrangement and take the risk, is that when the 21 contract was prepared for Tailwind? 22 A. The contract was prepared when we got 23 concurrence from Mr. Lorenzo that he would take a 24 substantial percentage of the risk. 25 Q. It has been argued in court pleadings and in</p>
<p style="text-align: right;">Page 804</p> <p>1 have gone through this in terms of what you assess the 2 probability at in your markup. I don't see anything 3 in here about Mr. Armstrong being a clean rider or any 4 discussion of performance enhancing drugs whatsoever. 5 Why is there no mention or discussion of that in this 6 e-mail? 7 A. If we were aware of any issues regarding 8 performance enhancing drugs, we would have 9 communicated them to Frank Lorenzo. 10 Q. Well, if I ask you to change your analysis 11 here and assume for a moment that there was a good 12 likelihood that Mr. Armstrong at some point in his 13 career had used performance enhancing drugs, could you 14 vary or alter your odds here to come up with a price 15 acceptable to you to do the deal? 16 A. Yeah, 100 percent. 17 Q. Why do you say that? 18 A. Because -- no, I'm saying we could charge 100 19 percent of the prize value and be sure that we were 20 covered. 21 Q. Well, let me ask about -- 22 A. I mean, it's -- the fact is we could not 23 quantify any acceptable price. 24 Q. Okay. Now, my question was if you knew he 25 had used performance enhancing drugs. What if you had</p>	<p style="text-align: right;">Page 806</p> <p>1 openings by Mr. Herman that the reason you entered 2 into this deal was because Mr. Lorenzo on behalf of 3 Swiss Re agreed to accept a substantial portion of the 4 risk; is that true? 5 A. We couldn't have done it without Mr. 6 Lorenzo's agreement. But on all our dealings with 7 Swiss Re or any of our risk takers, one, we normally 8 retain risk for our own account. Secondly, we 9 communicate anything adverse, we know about the -- we 10 give them whatever information we have at our 11 disposal. 12 Q. Well, is it true that you didn't care about 13 Mr. Armstrong's possible use of performance enhancing 14 drugs when he entered into this contract because Swiss 15 Re was taking all the risk and hence you didn't need 16 to worry? Is that true? Is that what happened? 17 A. No. 18 Q. Why do you say that? Why not? 19 A. First, we have to protect our risk takers. 20 Secondly, if they have adverse results, it affects our 21 costs going forward, it affects their viability as a 22 market, and in general we have to be -- we have to 23 treat their money as if it's our own. 24 Q. Now, I want you to stay with me in the 25 Claimants' Exhibits, and if you'll turn to Exhibit 10,</p>

Pages 803 to 806

Page 807	Page 809
<p>1 which is an e-mail that you prepared, and this is an 2 e-mail from you to Mr. Bandy and Mr. Overton regarding 3 the Tailwind contract; is that right? 4 A. Right. 5 Q. Dated January 9th, 2001; am I right on that? 6 A. Correct. 7 Q. So a couple of days after you've sent your 8 odds analysis, which was January 3rd to Mr. Lorenzo? 9 A. Yes. 10 Q. All right. Now, you've been questioned here 11 that regarding the last portions of this e-mail, one, 12 which is subject to rules and official results as 13 certified by official event governing body. Do you 14 see that? 15 A. Correct. 16 Q. What do you mean there? 17 A. I mean that Mr. Armstrong would have to 18 comply with the rules of the event, and that his -- 19 you know, it would be part and parcel that he would 20 have to comply with the rules of the event. 21 Q. Now, is compliance with the rules of the 22 event, in this case the Tour de France, is it your 23 understanding that that is part of your contract with 24 Tailwind? 25 A. Yes.</p>	<p>1 A. Correct. 2 Q. Is there a reason since you've gathered the 3 evidence that you have in this case that you haven't 4 put it in a box and marched over to the UCI, WADA or 5 USADA organizations? 6 A. I don't think we can. I don't think we are 7 permitted to disclose our evidence outside this 8 proceeding. 9 Q. Why do you say that? What is prohibiting you 10 from going to WADA or USADA and presenting the 11 evidence you have gathered? 12 A. Isn't -- well, I believe this is -- these 13 proceedings are under a confidentiality order. 14 Q. Are you prepared to present that evidence to 15 USADA, WADA or UCI if permitted? 16 A. Yes. 17 Q. Now, I want you to turn, if you will, to 18 Claimants' Exhibit 17, which is the contract in this 19 case. It's blank, but it's a little more readable. I 20 want to focus your attention on paragraph 6. 21 A. Correct. 22 Q. If the actual conditions of the promotion 23 differ in any way from those represented by sponsor to 24 SCA, this contract is null and void. Do you see that? 25 A. Correct.</p>
Page 808	Page 810
<p>1 Q. Is, in your mind, there any way that Tailwind 2 can owe money to Mr. Armstrong if Mr. Armstrong has 3 not complied with the rules of the Tour de France? 4 A. No. 5 Q. I want to focus now on the next sentence, 6 which is if titles are stripped as a result of 7 official action, then sponsor agrees to refund any 8 payments made. Do you see that? 9 A. Correct. 10 Q. Now, first, tell us what you meant when you 11 wrote that. What is it you were trying to accomplish? 12 A. We knew that there was drug testing that took 13 place and -- primarily drug testing that took place, 14 and if for some reason we were wrong about 15 Mr. Armstrong and there was official action, we felt 16 we would be entitled to get our money. 17 Q. Now, you are aware, obviously, that 18 Mr. Armstrong remains the official winner of the 2004 19 Tour de France? 20 A. Correct. 21 Q. You were asked questions earlier in the 22 proceedings by Mr. Herman in a somewhat, I think, 23 accusatory way as to why haven't you gone to the UCI, 24 WADA or USADA and pled your case there? Do you 25 remember those questions?</p>	<p>1 Q. Okay. First, do you have an understanding as 2 to what that provision means? 3 A. It means that there is a representation as to 4 what type of event we are covering and what the rules 5 of the event are, and certainly the intent, if not the 6 actual wording, was that if the event differs from 7 what it's supposed to be, then we should have no 8 liability under the contract. 9 Q. Now, it has been argued in this case that the 10 word promotion, that the actual conditions of the 11 promotion refers to the contract between Tailwind and 12 Mr. Armstrong, which is tab 1 in your book. Are you 13 aware of that particular article? 14 A. Yes. 15 Q. Is that your understanding of this provision 16 that what it is referring to is the contract between 17 Tailwind and Mr. Armstrong; that's what can't be 18 different? 19 A. No. 20 Q. Why do you say that? 21 A. Because the trigger event is the outcome of 22 the Tour de France, and the bonuses are contingent on 23 the outcome of the Tour de France, otherwise you could 24 have some real absurd results. 25 Q. Okay. Now, you enter into the contract in</p>

Pages 807 to 810

<p style="text-align: right;">Page 811</p> <p>1 2001 and there are published reports in 2001 that 2 Mr. Armstrong was having a training relationship with 3 Dr. Michele Ferrari. My question is, were you aware 4 in 2001 of the existence and disclosure of that fact? 5 A. No. 6 Q. So did you know who Michele Ferrari was in 7 2001, as best you can recall? 8 A. No. 9 Q. Mr. Armstrong wins the 2002 Tour de France 10 and a bonus payment was paid to Tailwind by SCA? 11 A. Correct. 12 Q. Why did SCA pay that bonus? 13 A. We saw no reason to contest the -- the claim. 14 Q. Were you aware of any allegations of drug use 15 by Mr. Armstrong in connection with the 2002 Tour de 16 France that gave you concern or put you on suspicion 17 regarding your company's liability? 18 A. No. 19 Q. 2003 Mr. Armstrong wins the Tour de France 20 and payment is made? 21 A. Correct. 22 Q. Were you aware of any allegations, evidence 23 or suspicions that put you on notice or alert in 24 connection with your company's liability for the 2003 25 Tour de France?</p>	<p style="text-align: right;">Page 813</p> <p>1 A. Well, we had ordered a copy of the French 2 edition of the book and John Bandy was then trans -- 3 reviewing the book and translating what he deemed to 4 be key points in the book. And at the same time we 5 were making attempts to contact the authors of the 6 book. 7 Q. Did you ultimately get a completely 8 translated version of the book? 9 A. Correct. 10 Q. Who did you get that from or how? 11 A. That came from David Walsh. 12 Q. Were you -- so you were able to make contact 13 with the author, David Walsh? 14 A. By early -- well, September 12th, perhaps. 15 Q. Okay. So between June when you heard about 16 the book and early September, had you been able to 17 contact the author, Mr. Walsh, regarding the 18 allegations in the book? 19 A. No. 20 Q. If you'll look at Exhibit 25. 21 A. That's Mr. -- okay. 22 ARBITRATOR CHERNICK: This is 23 Respondents' 25. 24 MR. TILLOTSON: Yes, I'm sorry, 25 Respondents' Exhibit 25.</p>
<p style="text-align: right;">Page 812</p> <p>1 A. No. 2 Q. Now, 2004 we know SCA did not pay; is that 3 right? 4 A. We did not pay. We paid it to the Court, 5 but -- 6 Q. What was different in 2004? What happened? 7 A. We saw very serious allegations regarding 8 Mr. Armstrong's conduct. 9 Q. How was it you first saw those allegations? 10 A. Information that contained excerpts from the 11 book LA Confidential. 12 Q. Was this before the Tour de France? 13 A. Yes. 14 Q. Were you looking for a reason to deny the 15 claim if Mr. Armstrong won during that time period? 16 A. We felt that we needed to investigate the 17 allegations in the book to see if they were true. 18 Q. Now, I'll have you put that set of exhibits 19 aside, and if you'll pick up the blue set, we are 20 going to talk about some additional exhibits in our 21 set. 22 You hear about the book. What steps do 23 you undertake? How do you go about getting the book? 24 A. We contact the authors. 25 Q. You say we --</p>	<p style="text-align: right;">Page 814</p> <p>1 Q. (BY MR. TILLOTSON) Can you identify for us 2 if this is the translated version of the book LA 3 Confidential that you were ultimately able to obtain? 4 A. Yes, I believe that's it. 5 Q. Before we look at anything specific in the 6 book, I want to ask you a more general question. How 7 is it that the book changed your attitude regarding 8 your contractual obligations with Tailwind? 9 A. There were a number of very serious 10 allegations in the book. One was the allegation of 11 race fixing in 1993, which at that point that we felt 12 we -- there was no way we could ever do business with 13 anybody who had ever fixed the outcome of an event. 14 Q. First, just, if you will, generally tell us 15 what allegations you're referring to. 16 A. Okay. The allegation made by Stephen Swart 17 that he had been paid to not contest the outcome of a 18 race in West Virginia, which was part of a three-part 19 series of races. 20 Q. Now, why would it matter for purposes of your 21 contract in 2001 that Mr. Armstrong, who had already 22 won two Tour de Frances, that he had been involved and 23 there were allegations that he had somehow fixed a 24 race eight years previously? Why would that even 25 conceivably matter to you in terms of entering into</p>

Pages 811 to 814

<p style="text-align: right;">Page 815</p> <p>1 this contract?</p> <p>2 A. We believed he would do it again if given an 3 opportunity.</p> <p>4 Q. Had you known in 2001 of the allegations 5 regarding Mr. Armstrong made by Mr. Swart in the book 6 regarding race fixing, would you have entered into a 7 contractual relationship with Tailwind based on 8 Mr. Armstrong?</p> <p>9 A. No.</p> <p>10 Q. Well, since we are on the issue of race 11 fixing, what did you do to determine, assess, or 12 investigate the allegations regarding race fixing made 13 in the book?</p> <p>14 A. We attempted to contact Mr. Swart prior to 15 contacting Mr. Walsh and we -- he would not speak to 16 us. Ultimately after talking to Mr. Walsh, he 17 arranged to -- we convinced Mr. Swart to speak to us, 18 and I traveled to New Zealand to interview Mr. Swart 19 myself to attempt to assess his credibility and to get 20 a statement from him, if I felt that he was credible 21 to the effect of the events in 1993 or pertaining to 22 events.</p> <p>23 Q. Were you able to obtain a statement from 24 Mr. Swart regarding the allegations in the book?</p> <p>25 A. Regarding the race fixing and other</p>	<p style="text-align: right;">Page 817</p> <p>1 wouldn't say alleged, I would say strenuously stated, 2 Mr. Hamman, that you used David Walsh's book as a 3 pretext for simply not paying Mr. Armstrong's claim or 4 Tailwind's claim because you didn't want to fork over 5 the \$5 million yourself; is that true?</p> <p>6 A. No.</p> <p>7 Q. Were there any allegations in the book, as 8 you investigated, that you found out to be untrue?</p> <p>9 A. No.</p> <p>10 Q. Now, let's talk timing. You get the book, 11 it's translated and you begin trying to confirm the 12 allegations of the book. When was the process of 13 confirming what was said in the book begun?</p> <p>14 A. Oh, probably about September -- well, as soon 15 as we contacted Mr. Walsh, within a few days 16 thereafter we met with him in Detroit and he arranged 17 for a meeting with us and Greg LeMond at that point, 18 Greg and Kathy LeMond.</p> <p>19 Q. Now, I want to turn your attention, if you 20 will, to the page of the book that's marked SCA 1384.</p> <p>21 A. SCA 1384?</p> <p>22 Q. Yes. And you'll know it because at the top 23 it will say Indiana hospital.</p> <p>24 A. 1384? What page -- I'm sorry, what page?</p> <p>25 Q. 1384.</p>
<p style="text-align: right;">Page 816</p> <p>1 allegations attributed to Mr. Swart.</p> <p>2 Q. Did he confirm the allegations made in the 3 book in your mind?</p> <p>4 A. Yes.</p> <p>5 Q. And has that statement been produced in this 6 litigation that you obtained from Mr. Swart?</p> <p>7 A. I believe it has.</p> <p>8 Q. Now, let's take the book as a whole. If the 9 allegations in the book are true, what did that mean 10 to you in 2004, as you understood it?</p> <p>11 A. It meant that we had been defrauded in 2000 12 by entering into the contract. It meant that 2001, '2 13 '3 and '4 were all -- we had entered into a contract 14 that there is no way we would have entered into had we 15 been aware of the information contained in the book.</p> <p>16 Q. Now, let me ask you the reverse. What if you 17 had traveled to New Zealand and Mr. Swart had told you 18 he had been terribly misquoted and that there was no 19 truth to what was written in Mr. Walsh's book and the 20 allegations in the book you found out either were not 21 true or you couldn't support or establish, were you 22 prepared to pay this claim?</p> <p>23 A. That would have virtually clinched it on 24 that.</p> <p>25 Q. It has been alleged in this case -- I</p>	<p style="text-align: right;">Page 818</p> <p>1 A. Okay, I've got.</p> <p>2 Q. Titled Indiana hospital.</p> <p>3 A. Oh, 1384, okay. I'll find it.</p> <p>4 Q. This is the portion of the book that recounts 5 the incident that allegedly took place in the Indiana 6 hospital; would you agree with me?</p> <p>7 A. Correct.</p> <p>8 Q. And you were obviously aware of this once you 9 had read either the book or excerpts of the book?</p> <p>10 A. Correct.</p> <p>11 Q. I'm going to let this --</p> <p>12 MR. TILLOTSON: Come on in.</p> <p>13 MR. BREEN: Come on around, Mr. Kearney.</p> <p>14 This is one of our experts. We would ask to have him 15 sit right back over here in the corner if it's okay 16 with the panel.</p> <p>17 ARBITRATOR FAULKNER: That's fine. You 18 can proceed.</p> <p>19 MR. TILLOTSON: Thank you.</p> <p>20 MR. BREEN: Sorry for the interruption.</p> <p>21 MR. TILLOTSON: That's no problem.</p> <p>22 Q. (BY MR. TILLOTSON) As I read this page, and 23 we are obviously going to put on evidence and talk 24 about this, but as I read this page in the book, it is 25 alleged that Mr. Armstrong disclosed to doctors his</p>

Pages 815 to 818

<p style="text-align: right;">Page 819</p> <p>1 prior use of performance enhancing drugs. But as I 2 read it, the witnesses who are alleged to be there, no 3 one actually confirms it and says yes. 4 A. That's correct. 5 Q. Now, based upon just this information alone, 6 what we are looking at in the book, did you feel that 7 was enough to deny the claim? 8 A. No. 9 Q. And was that true with the other allegations 10 in the book, the book alone allowed you or gave you 11 reason to deny the claim? 12 A. No. It gave us reason to investigate. 13 Q. Now, let's talk about the investigation. 14 Let's tie it to a specific incident here with respect 15 to the Indiana hospital room. How did you go about 16 trying to confirm if the somewhat blockbuster 17 allegations in these two pages were true? What is it 18 you did? 19 A. We attempted to contact witnesses. 20 Q. Well, let's be specific here. For example, 21 this refers to people in the room, such as Frankie and 22 Betsy Andreu. Did you attempt to contact them as part 23 of your investigation? 24 A. Yes, we did. 25 Q. Were you successful?</p>	<p style="text-align: right;">Page 821</p> <p>1 A. Correct. 2 Q. That puts payment from my calculation at 3 September 3rd, 2004. 4 A. Yes. 5 Q. Now, September 3rd, 2004 is coming up. What 6 decision did you make regarding what to do about the 7 claim prior to the payment date? 8 A. Well, we felt that we had to investigate. We 9 had yet to talk to Mr. Walsh. We had -- we wanted to 10 eliminate concern about our ability to pay, and we 11 notified -- we felt we should notify Tailwind that we 12 were going to investigate the claim. 13 Q. Now, if you'll turn to what's been marked as 14 Respondents' Exhibit 26, the next page, this is a 15 September 2nd, 2004 letter from you to Mr. Stapleton. 16 Do you see that? 17 A. Yes. 18 Q. What was the purpose of this letter? Why did 19 you send it? 20 A. To tell him that we were going to investigate 21 the claim, and that we needed information to 22 facilitate the investigation of the claim from 23 Tailwind and/or Lance Armstrong, the related 24 entities -- entities that might well have information 25 material.</p>
<p style="text-align: right;">Page 820</p> <p>1 A. Yes. 2 Q. Did they confirm, deny or not comment on the 3 allegations contained in these two pages? 4 A. They were confirmed. 5 Q. What role did that play in your investigation 6 or analysis regarding whether or not the claim should 7 be paid or denied? 8 A. We believed that this gave strong evidence 9 that Mr. Armstrong had doped and we were very aware of 10 his statements that he had never doped, and at that 11 point we certainly did not believe any statements he 12 would make that he wouldn't dope. 13 Q. When did SCA speak to Betsy and Frankie 14 Andreu and in your mind confirm the allegations 15 contained in these two pages? 16 A. Sometime mid December 2004. 17 Q. Was that a significant fact in your mind, the 18 confirmation by the Andreus of the Indiana hospital 19 incident? 20 A. Correct. 21 Q. Now -- 22 A. Yes. 23 Q. -- under the contract, my reading of the 24 contract is that the claim is due to be paid, if owed, 25 within 30 business days.</p>	<p style="text-align: right;">Page 822</p> <p>1 Q. Prior to sending this letter and in 2 connection with getting the book and starting to 3 understand the allegations in that July, August 2004 4 time period, were you aware of what Tailwind's 5 position was regarding the truth or validity of the 6 allegations made in Mr. Walsh's book? 7 A. Well, certainly their statements had always 8 been that there was no drug use of any sort, there was 9 no tolerance of drug use, that Mr. Armstrong had been 10 tested extensively and he had never tested positive, 11 that -- you know, there were just total -- all the 12 communications were that Mr. Armstrong did not use 13 performance enhancing drugs. 14 Q. Now, in this letter on page 2, the top 15 paragraph, you say this letter is not intended by SCA 16 to avoid its obligations under the SCA contract 31122. 17 Do you see that? 18 A. Right. 19 Q. Was that true? 20 A. Yes. 21 Q. What assurances can you offer this panel that 22 this letter and the book was not a pretext for SCA 23 simply to create a reason to deny the claim? 24 A. Well, we did, in fact, initiate an 25 investigation. We put up the \$5 million. Our claims</p>

Pages 819 to 822

	Page 823		Page 825
1	paying record, I think, is outstanding by virtually	1	A. No.
2	any standard, and we wanted to notify Tailwind that we	2	Q. Now, we are at the end of September, let's
3	simply had to investigate.	3	say, in our time line here of September 28th,
4	Q. Now, was \$5 million actually deposited into a	4	September 30th. You testified yesterday and I think
5	JPMorgan custodial account?	5	this morning that if you had known what you knew at
6	A. That's correct.	6	the end of this time period, September 2004, you
7	Q. And was notification given to Tailwind that	7	wouldn't have entered into the contract?
8	the funds had, in fact, been deposited?	8	A. Correct.
9	A. I believe it was.	9	Q. Do you generally recall that?
10	Q. All right. Now, in response to your letter	10	A. Yes.
11	here regarding investigation, that you were going to	11	Q. First, does that mean that you are testifying
12	do an investigation, what was the response of	12	that you knew and were prepared to deny the claim at
13	Tailwind?	13	that same time?
14	A. Essentially they -- well, they said that we	14	A. No.
15	had -- we were not entitled to investigate, we had no	15	Q. Okay. Explain to us how you can say that you
16	basis for an investigation, and they were going to --	16	knew enough not to enter into the contract but not
17	they threatened a public relations campaign, which	17	enough to deny the claim.
18	they followed through on.	18	A. The standards are totally different for claim
19	Q. Let me ask you to take a look at what we have	19	denial and entering into a contract simply because
20	marked as Exhibit 82.	20	there are many contracts that you will not enter into
21	A. Okay, got it.	21	for a variety of reasons. That certainly would not be
22	Q. If you'll take a look at 82, is this a letter	22	sufficient basis to deny a claim if you were in a
23	received back by SCA from Mr. Herman?	23	contract.
24	A. Yes.	24	Q. Even though Mr. Herman and Tailwind said
25	Q. Now, I take it that the response from	25	don't talk to anyone, did SCA proceed with its
	Page 824		Page 826
1	Tailwind regarding your actions and requests on	1	investigation?
2	September 2nd was pretty quick and pretty fierce?	2	A. We did.
3	A. Yes.	3	Q. Were you involved in that investigation?
4	Q. And was a -- a lawsuit filed on or about	4	A. Yes.
5	September 13th by Tailwind?	5	Q. Can you tell us some of the people you
6	A. Yes.	6	personally talked to in connection with the
7	Q. Was Mr. Armstrong a party to that lawsuit as	7	investigation?
8	well?	8	A. Well, over the course of time I talked to
9	A. Yes.	9	David Walsh, I talked to Greg and Kathy LeMond, I
10	Q. Now, this letter coming, say, eight days	10	talked to Betsy and Frankie Andreu, I talked to
11	later, I want to direct your attention to the third	11	Jonathan Potters, I talked to Pierre Ballester, I
12	paragraph which says demand is hereby made upon SCA,	12	talked to Stephen Swart, of course. I talked to a
13	its agents, employees, consultants and representatives	13	number of people. I don't recall them all.
14	to immediately cease and desist from any further	14	Q. Now, you've previously testified in response
15	communication with anyone relating to Mr. Armstrong	15	to Mr. Herman's questions as to when you decided that
16	and alleged impermissible performance enhancing	16	you had enough information to make the denial and not
17	chemicals, drugs, procedures or other conduct. Do you	17	pay the claim.
18	see that?	18	A. Correct.
19	A. Yes.	19	Q. But you were -- and I won't replot that
20	Q. Did Mr. Herman and Tailwind take the position	20	ground, but you were questioned by Mr. Herman as to
21	that you shouldn't talk to anyone regarding the	21	whether or not prior to then you ever told Tailwind
22	allegations you were investigating?	22	what the issue or problem was.
23	A. Yes.	23	I want to direct your attention, if you
24	Q. Did you receive any information from Tailwind	24	will, and turn to the next exhibit, exhibit -- or not
25	regarding any of the allegations in Mr. Walsh's book?	25	the next exhibit, but back to the binder of

Pages 823 to 826

	Page 827	Page 829
1 Exhibit 27.		1 A. Tab 106.
2 A. Exhibit 27?		2 Q. Okay. The money is in a custodial account,
3 Q. Yes, sir. Okay. Is this a letter from		3 and at some point in time did the parties agree to
4 Mr. Compton to Mr. Temple, September 7th, 2004?		4 deposit that money in the registry of the court?
5 A. Yes.		5 A. We agreed to deposit it in the registry of
6 Q. And at this point in time Mr. Temple was a		6 the court, yes.
7 lawyer representing Tailwind?		7 Q. And was it, in fact, deposited in the
8 A. Yes.		8 registry of the state district court?
9 Q. And Mr. Compton works in-house for you?		9 A. Yes.
10 A. Yes.		10 Q. Is it still there today?
11 Q. And was authorized to send out this letter?		11 A. Yes.
12 A. Yes.		12 Q. Now, was, as you recall, Tailwind satisfied
13 Q. And you knew about its contents and were okay		13 with the depositing of the funds into the registry of
14 with that?		14 the court? Is that all they wanted from your company
15 A. Yes.		15 during this time?
16 Q. Now, I want to direct your attention to the		16 A. No, they wanted financial disclosures. They
17 second paragraph, which says, second, your letter		17 wanted -- they wanted financial disclosures at that
18 suggests that unless the Tour de France expressly		18 point.
19 revokes Armstrong's title, SCA's obligation to pay 5		19 Q. Well, had you petitioned the court during
20 million in the present year if Lance Armstrong wins		20 this time period to get your money back and go spend
21 the Tour de France in 2001 through 2004 would be		21 it, the \$5 million?
22 unmodified by findings that he employed forbidden		22 A. No.
23 performance enhancing substances or processes. If		23 Q. What is it Tailwind alleged about your
24 that is your assertion, we respectfully disagree. Do		24 company during this time period?
25 you see that?		25 A. They alleged that -- I guess they alleged we
	Page 828	
1 A. Yes.		
2 Q. And was that accurate, did SCA disagree with		1 didn't have the ability to pay, notwithstanding.
3 that position?		2 Q. As you recall, was that the subject of the
4 A. Yes.		3 temporary injunction, whether or not additional
5 Q. The next statement, my question is is that an		4 financial information could be obtained from your
6 accurate statement of your belief at that time		5 company with respect to the \$5 million already on
7 communicated to Tailwind --		6 deposit?
8 A. Yes.		7 A. I believe it was.
9 Q. -- which says further, it is our view that		8 Q. Did SCA oppose that request?
10 proof of the use of banned substances or processes		9 A. Yes.
11 might entitle us to recover any prior amounts paid to		10 Q. Now, in connection with the -- the
12 Disson Furst, Tailwind or Lance Armstrong under the		11 investigation and the arbitration, the investigation
13 contract with Tailwind?		12 that SCA was doing, how did that interplay with the
14 A. Yes.		13 litigation once it was filed? We have got this
15 Q. Now, based upon that position communicated to		14 ongoing investigation, you've got litigation now being
16 Tailwind on September 7th, 2004, is this what you were		15 filed. How did that process come together?
17 investigating in an effort to determine during this		16 A. Well, we are dealing with the litigation and
18 time period?		17 we are dealing with the investigation pretty much at
19 A. We were -- yes.		18 the same time, or certainly it was a lot of overlap,
20 Q. Now, we've had some questions about the		19 but we were continuing to investigate the veracity of
21 lawsuit that was filed and I'm going to direct your		20 the allegations.
22 attention to that, if I could, and it is in the big		21 Q. Now, in connection with the litigation, did
23 binder 106, tab 106.		22 additional evidence come to SCA's attention --
24 A. In their binder?		23 A. Yes.
25 Q. Yes.		24 Q. -- regarding Mr. Armstrong's use of
		25 performance enhancing drugs?

Pages 827 to 830

<p style="text-align: right;">Page 831</p> <p>1 A. Yes.</p> <p>2 Q. Can you sort of identify for us what some of 3 that evidence was?</p> <p>4 A. Well, certainly the evidence of his positive 5 test results in the 1999 Tour that were reported in 6 L'Equipe is one very strong piece of information. The 7 information regarding sanctions against Dr. Ferrari 8 over and above the -- or actually the sanctions were 9 prior to the conviction.</p> <p>10 Q. Let me stop you there so I can understand 11 what you're saying. Dr. Ferrari was convicted of 12 sporting fraud in Italy in October 2004?</p> <p>13 A. I believe that's -- I think it's 14 September 30th, but it may have been October, early 15 October.</p> <p>16 Q. Did that fact play a role in your ultimate 17 decision to deny the claim?</p> <p>18 A. Yes.</p> <p>19 Q. Now, in addition to that conviction, which 20 took place in October 2004, did you learn something 21 else about Dr. Ferrari that played a role in your 22 continued refusal to pay this claim?</p> <p>23 A. Yes.</p> <p>24 Q. What is that?</p> <p>25 A. We learned that he had been sanctioned by the</p>	<p style="text-align: right;">Page 833</p> <p>1 litigation?</p> <p>2 A. No.</p> <p>3 Q. Had you completed your list of other acquired 4 evidence? I interrupted you on that before.</p> <p>5 A. Well, these were the two items. We also 6 found evidence that Dr. Ferrari was substantially more 7 involved with Mr. Armstrong than he stated.</p> <p>8 ARBITRATOR CHERNICK: He in that sentence 9 is Armstrong?</p> <p>10 A. That Armstrong had stated.</p> <p>11 Q. (BY MR. TILLOTSON) Now, based upon the 12 evidence you gathered, what conclusion did you 13 ultimately reach, Mr. Hamman?</p> <p>14 A. That we were not liable under the contract.</p> <p>15 Q. Why?</p> <p>16 A. Because we believed Mr. Armstrong had used 17 performance enhancing drugs and had cheated in the 18 event and that we had entered into the contract based 19 on false public representations by Mr. Armstrong.</p> <p>20 Q. Was there anything about Mr. Walsh's book 21 regarding allegations of drug use by Mr. Armstrong 22 that you were able to determine through your 23 investigation was not well founded or not true?</p> <p>24 A. No.</p> <p>25 Q. Now, I want to turn to a couple of other</p>
<p style="text-align: right;">Page 832</p> <p>1 Italian National Olympic Committee and by another 2 Italian body, and the sanctions were that he was not 3 to do business with any -- he was forbidden from doing 4 business with any athletes involved with either the 5 UCI or with the Olympics.</p> <p>6 MR. HERMAN: Did you ask him what date 7 that was?</p> <p>8 MR. TILLOTSON: Yes, I'm getting ready 9 to.</p> <p>10 Q. (BY MR. TILLOTSON) First of all, when did 11 that banning or action take place, as you understand?</p> <p>12 A. The Italian Olympic Committee banning took 13 place in late 2001. The disciplinary hearing took 14 place in 2002.</p> <p>15 Q. And when did you learn that information, even 16 though it took place in '01 and '02?</p> <p>17 A. Late 2004 or early 2005, late 2004 probably.</p> <p>18 Q. How did you come about that information?</p> <p>19 A. It was supplied to us by Zander Donati.</p> <p>20 Q. Who is whom?</p> <p>21 A. He's one of the persons that we contacted as 22 a result of the book.</p> <p>23 Q. Did you have any inkling regarding the 24 sanctions against Dr. Ferrari that took place in '01 25 and '02 prior to learning it in the course of this</p>	<p style="text-align: right;">Page 834</p> <p>1 subjects that were raised in the course of your 2 examination by Mr. Herman, one is the role of PIL, 3 Prize Indemnity Limited, in all of this. And to kind 4 of refresh everyone's memory regarding what's going 5 on, I'm going to ask you to turn in the blue binder to 6 our exhibit, Respondents' Exhibit 21.</p> <p>7 A. Okay.</p> <p>8 Q. This is a chart I did in connection with your 9 direct examination at the insurance related hearing, 10 that I did on a board and later transcribed with the 11 approval -- the exacting approval of Mr. Breen that 12 turned into Exhibit 21.</p> <p>13 A. Okay.</p> <p>14 Q. And I want to just make sure we know who PIL 15 is and what role they play. Can you describe first 16 who PIL is? What are they?</p> <p>17 A. PIL is a Bermuda licensed insurer.</p> <p>18 Q. And is there some commonality of owners 19 between PIL and SCA?</p> <p>20 A. Yes, there is some overlapping ownership.</p> <p>21 Q. You're involved in both?</p> <p>22 A. Yes.</p> <p>23 Q. You're a director of both?</p> <p>24 A. Yes.</p> <p>25 Q. Mr. Floerchinger, who's the CFO at SCA, he's</p>

<p style="text-align: right;">Page 835</p> <p>1 a director?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Now, what role did PIL play in 4 connection with the \$5 million of liability or risk 5 that you took on in this contract?</p> <p>6 A. In late 2004 we entered into an agreement 7 with PIL that we would buy \$5 million worth of 8 coverage from them at a cost of 105 percent of 9 whatever it cost them to reinsure the obligation, 10 subject to a minimum of \$1 million.</p> <p>11 Q. You said late 2004 and I think you meant some 12 other date when PIL became involved.</p> <p>13 A. PIL's first involvement was involved with 14 AIG.</p> <p>15 Q. Okay.</p> <p>16 A. The -- I was -- PIL was a -- an insurer -- 17 well, it was a reinsurer of Swiss Re or AIG of the 18 initial contract and the initial liabilities.</p> <p>19 Q. Okay. Now, some argument has been made that 20 because PIL paid a claim or paid SCA money that SCA 21 either didn't pay that money to Tailwind or kept the 22 funds. What happened to the money, first, that PIL 23 paid to SCA?</p> <p>24 A. This was the five million that we paid a 25 million to PIL for the reinsurance so that effectively</p>	<p style="text-align: right;">Page 837</p> <p>1 THE WITNESS: No, we paid them a million 2 dollars as a minimum deposit premium with a formula of 3 105 percent of whatever the cost of them laying off 4 the entire risk was.</p> <p>5 ARBITRATOR CHERNICK: And they were 6 unable to do that?</p> <p>7 THE WITNESS: And they were unable to -- 8 actually, there was an option in there that if they 9 were able to arrange for reinsurance to lay off the 10 five million, our cost would be 105 percent.</p> <p>11 ARBITRATOR CHERNICK: So you later paid 12 them 200,000 for a million, two in order to wash out 13 the million and get it back into SCA?</p> <p>14 THE WITNESS: In order to wash out.</p> <p>15 ARBITRATOR CHERNICK: And that just 16 became part of the five million you had deposited?</p> <p>17 THE WITNESS: That became part of the 18 five million.</p> <p>19 Q. (BY MR. TILLOTSON) The person responsible 20 for making those decisions was you?</p> <p>21 A. Well, yes.</p> <p>22 Q. I want you to turn, if you will now, to 23 Respondents' Exhibit 53, which is the advertisement 24 run by CSE and Mr. Stapleton.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 836</p> <p>1 we bought insurance which washed out the million by -- 2 there was a million, two collectible under the 3 contract and we paid them 200,000. So we had 4 previously paid them a million for the commitment to 5 cover at 105 percent of the cost of reinsurance and 6 subsequently we paid them 200,000 for a million, two 7 coverage in the event Mr. Armstrong won the Tour de 8 France.</p> <p>9 Q. Did you control the claims process? The 10 decision by PIL to pay SCA the money, was that you?</p> <p>11 A. Yes.</p> <p>12 Q. Why not have PIL deny the claim since SCA 13 later denied the claim?</p> <p>14 A. In practice, this was a recovery of the 15 million dollars we had paid them under the -- with the 16 thought that if they were able to reinsure the 17 obligation, that the \$5 million would be obtained by 18 PIL so that effectively PIL had no risk under the 19 contract and was out no money on the series of 20 transactions.</p> <p>21 ARBITRATOR CHERNICK: Can I try to 22 understand what was just said?</p> <p>23 MR. TILLOTSON: Sure. Yes.</p> <p>24 ARBITRATOR CHERNICK: You paid PIL a 25 million dollars to get -- to reinsure five million?</p>	<p style="text-align: right;">Page 838</p> <p>1 Q. Okay. First, can you tell us what magazine 2 or journal this ad ran in?</p> <p>3 A. SportsBusiness journal published by Street & 4 Smith.</p> <p>5 Q. SportsBusiness journal published by Street & 6 Smith. What kind of publication is that?</p> <p>7 A. It's directed at companies that are involved 8 in the sports business, is in the sponsorship, the 9 general commercial aspects of sport.</p> <p>10 Q. Would you be comfortable characterizing this 11 as a trade journal or trade publication in your trade?</p> <p>12 A. Yes.</p> <p>13 Q. Do your competitors, to your knowledge, 14 advertise or -- are aware of this publication, this 15 magazine?</p> <p>16 A. Yes.</p> <p>17 Q. Has SCA ever advertised in this publication?</p> <p>18 A. Yes.</p> <p>19 Q. Do you believe that your potential clients 20 and actual clients or customers have access and read 21 this magazine?</p> <p>22 A. Yes.</p> <p>23 Q. Now, are there portions of the ad that you 24 understand or believe at this time period are untrue?</p> <p>25 A. Yes.</p>

Pages 835 to 838

<p style="text-align: right;">Page 839</p> <p>1 Q. Have you identified those in connection with 2 your questions from Mr. Herman? 3 A. Yes. 4 Q. One of them I think you identified is in the 5 third paragraph? 6 A. Correct. 7 Q. Which says that CHUBB and Lloyds promptly 8 sent payment along with congratulations, whereas you 9 sent a letter saying you were going to investigate? 10 A. Correct. 11 Q. First, why is that untrue? 12 A. Well, CHUBB -- Lloyds had not paid. Second, 13 the characterization of the investigation we believe 14 was very misleading and designed to cast us in a bad 15 light. 16 Q. How were you damaged by the statements in 17 this paragraph, as a business? 18 A. It was used by our competitors as a 19 competitive tool. They sent it to prospective 20 customers on at least -- well, on some occasions. We 21 don't know how many. 22 Q. Well, do you have personal knowledge as to 23 whether SCA lost business because of that tactic 24 employed by -- 25 A. We believe we did.</p>	<p style="text-align: right;">Page 841</p> <p>1 false regarding what was said in this ad about drug 2 test results being provided to you by Tailwind? 3 A. The drug test results were never provided to 4 us by Tailwind. 5 Q. The statement there from Christian Varin from 6 the UCI, do you see that? 7 A. Yes. 8 Q. Were you provided with that statement by 9 Tailwind? 10 A. Yes. 11 Q. Were you provided with the underlying test 12 results referenced in that statement? 13 A. No. 14 Q. Had you asked for them? 15 A. Yes. 16 Q. The laboratory that's listed there 17 Chatenay -- is that Malabry? 18 A. Yes. 19 Q. Do you know if that's the same laboratory 20 that later performed the tests that were revealed by 21 L'Equipe from the 1999 Tour de France urine samples? 22 A. Yes. 23 Q. So the lab being referenced here is the same 24 lab that did the work later on? 25 A. Yes.</p>
<p style="text-align: right;">Page 840</p> <p>1 Q. Are you aware of any specific deals that were 2 lost by SCA because of that? 3 A. No. 4 Q. So how is it you can tell the panel you 5 believe you lost business? 6 A. Well, our business in the area was down 7 and -- you never get a statement from a prospective 8 customer that they didn't do business with you for a 9 reason of this nature. They just don't. So their -- 10 you don't -- they don't confirm that's why, or it 11 would be extremely rare that a prospective customer 12 would confirm that that was the reason that they 13 failed to do business with us. 14 Q. Has SCA demanded a retraction from 15 Mr. Stapleton and/or Capital Sports for the statements 16 made? 17 A. We felt a retraction would be of no value 18 whatsoever, but we did demand -- I believe we demanded 19 a retraction in our filing in North Carolina. 20 Q. Has this statement ever been retracted or 21 corrected by publication? 22 A. I don't believe so. 23 Q. Now, I want to direct your attention to the 24 bottom portion of it which says the truth of the 25 matter is on August 16th, 2004. What is it that's</p>	<p style="text-align: right;">Page 842</p> <p>1 Q. The bottom paragraph which you were asked 2 about by Mr. Herman which begins with, unfortunately, 3 it appears that SCA is changing the rules when it is 4 time to fulfill its obligation, was that true? 5 A. No. 6 Q. It takes something from your web site that 7 says, if an athlete hits their mark, you pay? 8 A. That's correct. 9 Q. Had Mr. Armstrong hit the mark in your mind? 10 A. No. 11 Q. Why not? 12 A. Because we had serious concerns about the 13 manner in which he had hit the mark. 14 Q. Why is it at this time period, and this ad 15 was run in October of 2004, and to this date here, 16 January 2006, why has SCA not paid Tailwind the five 17 million bucks? 18 A. We don't believe we owe the money. 19 Q. Have you in your mind developed sufficient 20 evidence to allow you to conclude that Mr. Armstrong 21 used performance enhancing drugs? 22 A. Yes. 23 Q. And are you prepared to present that evidence 24 here in this hearing? 25 A. Yes.</p>

Pages 839 to 842

<p style="text-align: right;">Page 843</p> <p>1 MR. TILLOTSON: No further questions. 2 Pass the witness. 3 MR. HERMAN: Mr. -- 4 ARBITRATOR FAULKNER: Proceed. 5 MR. HERMAN: I'm sorry. 6 RE-DIRECT EXAMINATION 7 BY MR. HERMAN: 8 Q. Mr. Hamman, you said that -- 9 ARBITRATOR CHERNICK: I'm sorry, could I 10 just follow up on one question? 11 MR. HERMAN: Sure. 12 ARBITRATOR CHERNICK: You said that your 13 business was down and that that was a measure by which 14 you assess the injury from the Exhibit 53. 15 THE WITNESS: It's a possible 16 contributing factor. We don't know exactly. 17 ARBITRATOR CHERNICK: Is there a specific 18 line of business that you were referring to, or your 19 business in general? 20 THE WITNESS: Well, the incentive 21 business and the sponsors that -- that deal with -- 22 effectively customers of ours who read SportsBusiness 23 journal might well have concerns, or customers or 24 prospective customers might have concerns about the -- 25 the ad or concerns about it.</p>	<p style="text-align: right;">Page 845</p> <p>1 Q. Now, when you spoke to Mr. Walsh and Mr. and 2 Mrs. LeMond and Mr. and Mrs. Andreu and Mr. Ballester, 3 Mr. Swart, you received no reliable information or 4 evidence that Mr. Armstrong engaged in any prohibitive 5 conduct in any one of those four races, did you? 6 A. We received information that indicated that 7 there was a strong possibility that he did. 8 Q. What I'm asking you, Mr. Hamman, with respect 9 to SCA's obligation, you received no information about 10 any conduct by Mr. Armstrong or anyone else having to 11 do with those four races, which were the only matters 12 subject to your contract; isn't that true? 13 A. We received no information regarding the 14 2001, '2, '3, or '4 races. 15 Q. Now, was there any other performance award 16 that you were liable for other than the performance 17 awards as a result of those four races? 18 A. No. 19 Q. Now, if you look -- if you look -- if you 20 look back at Claimants' Exhibit 10, you talked to 21 Mr. Tillotson about that, do you recall? 22 A. Yes. 23 Q. When you -- you also indicated to 24 Mr. Tillotson that with respect to Exhibit 83 that you 25 were aware at the time in 1998 of Willy Vogt being</p>
<p style="text-align: right;">Page 844</p> <p>1 ARBITRATOR CHERNICK: So your statement 2 that your business was down was related to the 3 incentive? 4 THE WITNESS: Yes. 5 ARBITRATOR CHERNICK: The sports 6 incentive line of business? 7 THE WITNESS: That's part of it, but 8 there were other types of contracts that we deal with, 9 subscribers to SportsBusiness journal. 10 ARBITRATOR CHERNICK: Thank you. Sorry, 11 Mr. Herman, go ahead. 12 Q. (BY MR. HERMAN) Mr. Hamman, I believe you 13 indicated that you were a substantial shareholder in 14 SCA? 15 A. Yes. 16 Q. And of all the people in the world, you would 17 have the most to lose by paying the \$5 million, would 18 you not? 19 A. That's correct. 20 Q. And to be clear, the contract we are talking 21 about here covers Tailwind's liability for four races: 22 the 2001 Tour de France, the 2002 Tour de France, the 23 2003 Tour de France, and the 2004 Tour de France, 24 correct? 25 A. That's correct.</p>	<p style="text-align: right;">Page 846</p> <p>1 apprehended at the French/Belgian frontier; is that 2 right? 3 A. That's correct. 4 Q. So you know Willy Vogt is not the most famous 5 person in the world, so you were following cycling 6 quite closely back in '98, correct? 7 A. The news of Willy Vogt hit major publications 8 throughout the U.S. I don't recall exactly where I 9 saw it, but I knew it made news magazines. It got a 10 lot of visibility. 11 Q. And what was at issue there was the entire 12 sport of professional cycling had a cloud over it; 13 isn't that true? 14 A. It was directed primarily at the Festina 15 team, but it certainly did not cast cycling in a good 16 light. 17 Q. Well, I suppose you made Mr. Lorenzo aware of 18 that cloud and your knowledge about the potential 19 cloud over the entire sport when you communicated with 20 him about this risk? 21 A. The risk was Lance Armstrong, whom we 22 believed to be a clean rider. 23 Q. So you didn't communicate anything to 24 Mr. Lorenzo about the sport of professional cycling, 25 about the Tour de France, about the Festina affair or</p>

Pages 843 to 846

Page 847	Page 849
1 about Willy Vogt or anything like that; is that true?	1 as the award.
2 A. That's correct.	2 Now, what is -- what do you say is
3 Q. Now, if you'll look at your -- if you'll look	3 uncertain about SCA's responsibility to indemnify or
4 at your e-mail there to Mr. Bandy.	4 insure Tailwind's liability?
5 A. Yes.	5 A. Let's suppose that Tailwind's contract called
6 Q. You had not reviewed the conditions of	6 for a bonus of a million dollars in the event that he
7 Tailwind's liability at that point, had you?	7 could get up in the morning and ride his bicycle a
8 A. No.	8 mile.
9 Q. As a matter of fact, you never took the time	9 Q. Okay.
10 to even look at what you were insuring until June of	10 A. We would presume that would not be covered.
11 2004; isn't that true?	11 We thought we were dealing with a trigger event of the
12 A. It was represented to us that Tailwind's	12 Tour de France and that it was subject to the rules of
13 liability was for trigger events in the Tour de France,	13 the Tour de France.
14 in compliance with the rules of the Tour de France,	14 Q. Well, the best evidence of what it was
15 and we did not review the Tailwind contract.	15 subject to would be reflected in the Tailwind contract
16 Q. Well, were you aware that Tailwind would be	16 with Mr. Armstrong which you insured, wouldn't it?
17 obligated if he was -- if Mr. Armstrong was the	17 A. It was represented to us that we were dealing
18 official winner?	18 with performance bonuses in the contract and that the
19 A. We were aware -- we believed that Tailwind	19 performance bonuses were subject to the outcome of the
20 would be subject to the rules of the sport.	20 Tour de France and to Mr. Armstrong's compliance with
21 Q. I didn't ask you that, Mr. Hamman. I asked	21 the rules of the Tour de France.
22 you what you insured. Now, you weren't aware until	22 Q. Who represented that to you?
23 June of 2004 that Tailwind's liability would depend on	23 A. Kelly Price.
24 Mr. Armstrong being the official winner; is that what	24 Q. Did you ask to see the contract?
25 you're saying?	25 A. No.
Page 848	Page 850
1 A. We felt that Tailwind's liability would	1 Q. Never?
2 dovetail with our contract, because if it didn't,	2 A. Eventually we did.
3 Tailwind would say you've got the wrong contract here;	3 Q. After Swiss Re paid the money in 2002 and
4 this doesn't fit.	4 2003?
5 Q. You agree that Tailwind's liability to	5 A. In 2002 and 2003, we had no reason to believe
6 Mr. Armstrong was governed by their contract with	6 that Mr. Armstrong had done anything other than comply
7 Mr. Armstrong, didn't you?	7 with the rules of the Tour de France, and that he had,
8 A. Yes.	8 in fact, won the event.
9 Q. Now, and that's what you undertook to insure;	9 Q. All right. Let me ask you this.
10 isn't that true?	10 MR. HERMAN: If you go back to -- if you,
11 A. We were -- we contracted to pay in the event	11 go back to slide 5, please, Russell.
12 of a trigger deal for which Tailwind represented they	12 Q. (BY MR. HERMAN) Have you got that?
13 had liability.	13 A. Slide 5.
14 Q. What you agreed to insure was Tailwind's	14 Q. It's our Exhibit 10, but it's reproduced
15 liability. I mean, I don't want to go back over this	15 completely there.
16 contract, but certainly that's precisely and	16 A. Okay.
17 unambiguously what SCA insured; isn't that true?	17 Q. Okay. You clearly understood that someone
18 A. Not strictly.	18 could be the official winner of the event and later be
19 Q. Okay.	19 stripped of the title, correct?
20 MR. HERMAN: Would you put up number four	20 A. We were not -- we were aware that it was a
21 slide, please, Russell.	21 possibility.
22 Q. (BY MR. HERMAN) 2.d: SCA indemnifies	22 Q. And the official -- official event governing
23 Tailwind in respect to Tailwind's liability to avoid	23 body you recognized would make that determination,
24 such performance awards to Lance Armstrong to the	24 correct?
25 extent provided for in the contract, the extent shown	25 A. There is a judging process and there are

<p style="text-align: right;">Page 851</p> <p>1 winners declared at the site and presumably that's the 2 Amaury Sports Organization's appointed officials. 3 Q. Have you ever requested, incidentally, that 4 Tailwind waive the confidentiality provision so that 5 you could take all of this stuff over to UCI? 6 A. We, as a matter of fact, objected to the 7 confidentiality provision at the onset of the 8 arbitration. 9 Q. No, I'm asking you, have you ever requested 10 so that -- you have told Mr. Tillotson that the reason 11 we haven't gone to the UCI was because we had the 12 confidentiality provision. Have you ever asked for 13 that to be waived so you could go pitch your case to 14 somebody that could do something about it? 15 A. Given that Tailwind demanded the 16 confidentiality agreement and issued us demand letters 17 that we not contact anybody or investigate the claim 18 in any manner, that didn't seem to be very likely to 19 occur. 20 Q. So the answer is no, you haven't? 21 A. The answer is no. 22 Q. All right. And, you know, you're on the 23 record, you're free to go to the UCI and take every 24 single bit of paper over there that you want to. 25 A. Are we free to go to USADA or WADA?</p>	<p style="text-align: right;">Page 853</p> <p>1 A. Tailwind was the contracting party. 2 Q. That's the only contracting party? 3 A. Correct. 4 Q. Okay. Now, secondly, in your -- in this 5 second paragraph, Mr. Compton repudiates the idea that 6 unless Mr. Armstrong was stripped of his title, that 7 you all owe the money. Did that -- that represented a 8 change in position from the date you signed this -- 9 the contract with Tailwind, didn't it? 10 A. Not entirely. 11 Q. Well, its contrary to your e-mail of 12 January 9, 2001, isn't it? 13 A. You mean the e-mail? 14 Q. The e-mail that says if he's stripped of his 15 title you have to pay the money back. 16 A. If he is stripped of the title, we would 17 certainly believe we were entitled to the money back, 18 yes. 19 Q. I understand that. But Mr. Compton in this 20 letter repudiates the idea that you're obligated to 21 pay the money, and that if he is stripped of his 22 title, you have to give the money back. 23 A. If he is stripped of his title subsequent to 24 us paying the money, we would believe we are entitled 25 to get the money back. If, on the other hand, he</p>
<p style="text-align: right;">Page 852</p> <p>1 Q. You're free to go to the governing body of 2 the event just as you anticipated in your e-mail of 3 January 9th. 4 A. Are we free to go to -- 5 Q. Well, I'm not going to get into -- 6 MR. TILLOTSON: I'm going to object. 7 Make an offer to me and we will accept it. So I don't 8 know -- 9 ARBITRATOR FAULKNER: Let me interject. 10 Gentlemen, if you make such an offer, please put it in 11 writing and copy the panel in so we can see exactly 12 what you've agreed to. Thank you. 13 Proceed. 14 Q. (BY MR. HERMAN) Now, if you would look at 15 Respondents' Exhibit 27 that you talked to 16 Mr. Tillotson about. 17 A. That's the check? 18 Q. No, no, no, no, it's the Respondents' 19 Exhibit 27. 20 A. I'm sorry. Yes. 21 Q. All right. First of all, one part you didn't 22 talk about was SCA's insistence in the first paragraph 23 that its only relation -- contractual relationship was 24 with Tailwind. That's -- that position of SCA hasn't 25 changed, has it?</p>	<p style="text-align: right;">Page 854</p> <p>1 cheated to win the event, we don't necessarily see 2 that we are obligated to pay. 3 Q. Okay. So as of September 7, you had no 4 information regarding the 2001, 2002, 2003 or 2004 5 Tour de France, did you? 6 A. No. 7 Q. And when I took your deposition, didn't you 8 tell me the only information that you had that related 9 to any one of those four races was what Mike Anderson 10 had told you? 11 A. I may have. I believe we actually had more 12 information. We certainly had the LeMonds' statement 13 at that point. 14 Q. Mr. Hamman, with respect -- well, strike 15 that. 16 And you didn't talk to Mike Anderson 17 until long after Mr. Lynn stood up in court in 18 December of 2004 and denied the claim, did you? 19 A. That's correct. Well, yes. I'm not sure 20 when we exactly talked with Mike Anderson, but I think 21 it was later than that. 22 Q. Well, so you had made the decision to deny 23 the claim before you had even talked to Mr. Anderson? 24 A. We believed that we had a strong basis for 25 denying the claim.</p>

Pages 851 to 854

<p style="text-align: right;">Page 855</p> <p>1 Q. Mr. Hamman, please, do you -- I mean, did you 2 or did you not deny the claim as Mr. Tillotson has 3 represented to the panel that you denied it in court 4 in December of 2004; is that true or untrue? 5 A. That's true. 6 Q. Okay. Now, look at the second paragraph of 7 this -- of Respondents' Exhibit 27. Do you assert -- 8 any place in that second paragraph, do you assert that 9 Tailwind made any representation or misrepresentation 10 to you? 11 A. In that paragraph? 12 Q. Right. 13 A. No. 14 Q. Can you point to any information, whether 15 it's oral or written or whatever, where SCA ever 16 informed Tailwind of the basis upon which they told 17 this panel that SCA denied claim, that is, on the 18 basis that Tailwind misrepresented something to them? 19 A. I don't know. 20 Q. Well, you can't point to any oral or written 21 notification to Tailwind that SCA's position was, hey, 22 Tailwind, you misrepresented things to us, so we don't 23 have to pay? 24 A. I believe that was in our pleadings. I 25 believe that it was in Mike Lynn's statement.</p>	<p style="text-align: right;">Page 857</p> <p>1 Q. In August of 2004, isn't that what you told 2 the panel? 3 A. Correct. 4 Q. Well, did you not consider employing 5 Mr. Galloway in anticipation of the litigation on July 6 the 27th as initiating the investigation? 7 A. He hadn't taken any steps. I mean, we 8 certainly attempted to make contact with Mr. Walsh, 9 but we hadn't really attempted to confirm any of the 10 statements at that point. We hadn't talked to any 11 witnesses. We hadn't -- okay, we had -- if employing 12 Mr. Galloway -- or actually we asked for a proposal 13 and said this was going to be the scope of the 14 investigation, but we hadn't entered into an agreement 15 at that point. 16 Q. You didn't -- did you notify Tailwind that 17 you had employed Mr. Galloway to investigate it and 18 the rest of the -- and anyone else that might be 19 remotely associated with Mr. Armstrong? 20 A. We did not. 21 Q. Why? 22 A. Because we did not know if we were going to 23 have sufficient basis to investigate the claim. We 24 had not talked to Mr. Walsh, we were trying to gather 25 what information we could so that we would be able to</p>
<p style="text-align: right;">Page 856</p> <p>1 ARBITRATOR LYON: Is that statement in 2 your exhibits? You said yesterday that you had a 3 transcript of it to provide. 4 MR. TILLOTSON: Yes, I did bring copies. 5 It was not in my original one, I apologize. 6 MR. HERMAN: Do you have a copy of that 7 for us? 8 MR. TILLOTSON: I have -- well, I might. 9 I can get it for you. 10 MR. HERMAN: We will get it after lunch, 11 that's fine. I don't need it right now. 12 MR. TILLOTSON: I did plan on providing 13 it. I planned on holding onto it until Mr. Compton 14 was at the hearing as opposed to Mr. Hamman who 15 wasn't, so that was my thinking. I'll be happy to 16 provide it. 17 Q. (BY MR. HERMAN) When you say your pleadings, 18 you're talking about the pleadings in this 19 arbitration? 20 A. Correct. 21 Q. Which were filed on April the 4th of 2005? 22 A. I will accept that statement. 23 Q. Now, you said that you had initiated this 24 investigation sometime in August? 25 A. We had initiated some investigation, yes.</p>	<p style="text-align: right;">Page 858</p> <p>1 deal by September 3rd and at that point either pay the 2 claim or indicate that we were going to need to 3 investigate it. We certainly did not want to cause 4 ill will if the determination was made not to 5 investigate the claim and simply to pay it. 6 Q. Have you ever had a claim this large where 7 SCA had not laid it off somewhere? 8 A. This large? 9 Q. Yes. 10 A. No. 11 Q. How large was the Ameritech claim? 12 A. Their initial lawsuit was for perhaps \$3 13 million. 14 Q. And that was another claim you refused to pay 15 at SCA, right? 16 A. That's correct. 17 Q. And that was another instance where, through 18 an oversight, you hadn't bought insurance and hadn't 19 laid it off, correct? 20 A. That's correct. 21 Q. And you didn't -- you didn't pay that claim 22 either, did you? 23 A. That's correct. 24 Q. And that money would have to come out of 25 SCA's money?</p>

<p style="text-align: right;">Page 859</p> <p>1 A. That's correct. 2 Q. Now, you said that there -- you told 3 Mr. Tillotson there were different criteria for 4 denying a claim and refusing, you know, to enter into 5 a contract, correct? 6 A. We don't really refuse to enter into a 7 contract, you simply don't offer to enter into the 8 contract. 9 Q. Okay. Well, when you came upon information 10 that would have prevented you -- I mean, or kept you 11 from issuing this insurance contract had you known 12 about it, did you feel you had sufficient information 13 to rescind the contract? 14 A. Not necessarily, no. The information that 15 would have caused you to not enter into a contract is 16 of a lesser standard than the information that you 17 would require to seek rescission of the contract. 18 Q. Well, you're complaining, aren't you, that 19 Tailwind didn't tell you things that they should have 20 told you? 21 A. Yes. 22 Q. Now, did you have any -- you had no 23 relationship with Tailwind prior to January 9 of 2001, 24 did you? 25 A. No.</p>	<p style="text-align: right;">Page 861</p> <p>1 after the contract was negotiated between you and 2 Mr. Lorenzo? 3 A. I -- I have no knowledge that -- whether they 4 knew anything about us or not. 5 Q. You're not asserting here that the comments 6 or if there were any, that you were even aware of any 7 comment by Tailwind prior to January 9, 2001? 8 A. We certainly were aware of Mr. Armstrong's 9 comments. 10 Q. But you didn't even know who Tailwind was, so 11 you wouldn't have known whether they made a comment or 12 not? 13 A. That's correct. Though we might -- 14 Q. And secondly, you're certainly not asserting 15 that Tailwind's comments, whatever they were, not even 16 knowing who SCA was or what it was, were intended to 17 influence your decision to indemnify nine and a half 18 million dollars worth of liability? 19 A. I'm asserting that Tailwind and 20 Mr. Armstrong's comments were designed to allay 21 concerns of potential contracting parties. 22 Q. Whether they be -- but you're not saying 23 insurance necessarily, you're just saying anybody that 24 might decide at some point to do business with them, 25 that issue would be of significance to them; isn't</p>
<p style="text-align: right;">Page 860</p> <p>1 Q. You didn't know who Tailwind was before that, 2 did you? 3 A. Well, Disson Furst, but we did not. 4 Q. And you're not taking the position here that 5 Mr. Gorksi's statement to the Toronto paper in 1998 6 was intended to deceive SCA into issuing the specific 7 insurance contract we're talking about here, are you? 8 A. We are taking the position that Mr. Gorksi's 9 and Mr. Armstrong's statements were intended to 10 influence potential contracting parties that 11 Mr. Armstrong was clean, he had not doped and did not 12 tolerate anybody who would dope, and that he would be 13 crazy to dope in view of his medical history. 14 Q. Can you find an insurance executive anywhere 15 in the world that would enter into a 9.5 indemnity 16 contract based upon what -- a comment in the paper 17 from three years before by an unrelated party? 18 A. You will not enter into a contract -- 19 assurances that somebody is clean contributes to the 20 decision to enter into the contract. 21 Q. Well -- 22 A. Put another way, if we thought he wasn't, we 23 would not have done the deal. 24 Q. You would agree that the people at Tailwind 25 had no idea who or what SCA was perhaps until even</p>	<p style="text-align: right;">Page 862</p> <p>1 that what you're saying? 2 A. It was part of the propaganda campaign. 3 Q. Well, the answer to my question is it 4 wouldn't make any difference if you were in insurance 5 or bicycles or sunglasses or mutual funds or whatever? 6 A. It wouldn't matter. 7 Q. So the specific kind of transaction that we 8 are talking about here, insurance, you're not 9 confining their intent to this specific kind of 10 transaction, correct? 11 A. I don't think it was aimed at -- I certainly 12 don't think they knew of us at the time for most -- it 13 was not aimed specifically at SCA. I'm not asserting 14 that. 15 Q. Or insurance companies for that matter? 16 A. That may have been part of it, because they 17 certainly bought substantial amounts of contractual 18 bonus coverage over the years from multiple different 19 entities. 20 Q. All right. My only point, Mr. Hamman, is 21 that in, for example, this newspaper article from 22 1998, you're not asserting that that -- those comments 23 were made for the purpose of -- specifically of 24 influencing insurance companies to cover bonuses, that 25 it was designed for everyone?</p>

Pages 859 to 862

	Page 863	Page 865
1	A. It was designed for contracting parties.	1 Q. Do you watch CBS ever?
2	Q. Insurance companies and everybody else?	2 A. Football games.
3	A. Insurance companies, sponsors, others.	3 Q. CNN?
4	Q. Okay. Now --	4 A. I watch a moderate amount of media. I read
5	MR. HERMAN: Would you put up slide 19?	5 newspapers from time to time.
6	Q. (BY MR. HERMAN) Incidentally, before I get	6 Q. And you know a French masseuse's name
7	to this, Mr. Hamman, you would agree that the -- this	7 intimately, but you can't remember that the -- that
8	so-called 1999 test research project actually came out	8 there was wide -- an investigation of the U.S. Postal
9	in August of 2005, that is, the L'Equipe article?	9 Service team by the French in 2000?
10	A. Yes.	10 A. I wasn't aware of it at the time.
11	Q. That would have been at least eight, probably	11 Q. Well, had you known about the investigation
12	nine months after you-all denied the claim?	12 of the U.S. Postal Service team and the allegations
13	A. That's right.	13 that were being made against it a mere month before
14	Q. Now, as I understand it, you filed suit	14 you issued this insurance contract, would you have
15	against Capital Sports Entertainment in North	15 done the deal?
16	Carolina; is that right?	16 A. No.
17	A. That's correct.	17 MR. HERMAN: I pass the witness.
18	Q. And who else, Mr. Stapleton?	18 MR. TILLOTSON: I just have one area real
19	A. Mr. Stapleton.	19 quick. I think we can finish briefly and then --
20	Q. And based upon the same claims you're making	20 ARBITRATOR FAULKNER: Okay. Great. Why
21	in this proceeding about this advertisement?	21 don't you wrap up, then.
22	A. Different parties.	22 RE-CROSS EXAMINATION
23	Q. You can't point to a single contract that was	23 BY MR. TILLOTSON:
24	lost as a result of that advertisement, can you?	24 Q. Mr. Hamman, you were asked about the
25	A. We know that we quoted on numerous contracts	25 Ameritech matter, and I think it was suggested that
	Page 864	Page 866
1	that we didn't get. Now, we know that the ad had been	1 you go around denying large claims that you can't get
2	used as a competitive tool, so a customer -- a	2 subsequent insurance for.
3	prospective -- no prospective customer has advised us	3 First, can you tell us what the Ameritech
4	that we lost their business because of that ad.	4 dispute was about just generally?
5	Q. And do you have -- have you engaged anybody,	5 A. We entered into a contract where prepaid
6	an accountant or otherwise, to calculate what you	6 phone cards were to be distributed to purchasers of
7	claim your losses were from that or directly	7 certain Ameritech services. The offer was to be made
8	proximately caused by this ad?	8 to existing Ameritech customers. The offer was to be
9	A. There is a great deal of difficulty measuring	9 communicated by direct mail to these customers and
10	the losses.	10 there was to be some television and radio advertising
11	Q. Now, you talk about this -- about the Willy	11 of the offer.
12	Vogt business being so widely publicized?	12 Q. What was SCA's role? What risk are you
13	A. Correct.	13 assuming in connection with the offer?
14	Q. Well, are you saying that the French	14 A. We were given a quantifiable mailing list,
15	investigation of the United States Postal team in 2000	15 which I believe was about six million Ameritech
16	was not widely publicized?	16 customers that were to receive the offer, and I -- to
17	A. I wasn't aware.	17 the best of my recollection, they had about 12 million
18	Q. As widely publicized?	18 customers and the offer was to be made to the six
19	A. I wasn't aware of it.	19 million by direct mail and there would be some media
20	Q. Do you read the Dallas Morning News?	20 support for the offer.
21	A. Occasionally.	21 Q. Okay. But what does SCA do with respect to
22	Q. Do you read the New York Times?	22 the offer as people accept the cards? What risk was
23	A. Much less frequently.	23 SCA assuming?
24	Q. Do you read Texas Monthly?	24 A. We were accepting the risk for the
25	A. Seldom.	25 distribution of cards at a specific value in

<p style="text-align: right;">Page 867</p> <p>1 conjunction with the offer. 2 Q. Okay. And what happened or what was wrong? 3 A. First, Ameritech, as it developed, conducted 4 an outbound telemarketing campaign to sign up 5 customers for the offer. Second, when somebody called 6 in requesting a transfer of service or ordering new 7 phone service who would presumably be unaware of the 8 offer, the offer was made to them. So the offer was 9 to be restricted as to who it was to and how it was to 10 be communicated, and we based our appraisal of the 11 response rate based, you know, on the number of 12 prospective customers who would receive the offer. 13 Q. Was there litigation over this dispute? 14 A. There was. 15 Q. Before or in connection with the litigation, 16 did SCA put the money up that was allegedly owed? 17 A. We became aware that we would have a 18 difference of opinion as to how much money, if any, we 19 owed Ameritech, and we met with them in December of 20 I'm going to think, 1998 to discuss the situation. At 21 that point we were aware we had not covered our 22 liability under the contract and we agreed with 23 Ameritech that \$700,000 or somewhere in the high 600s 24 to 700, I think it was 700, but I'm not completely 25 sure of that, was the maximum amount that they would</p>	<p style="text-align: right;">Page 869</p> <p>1 You're the decision maker at SCA, the ultimate 2 decision maker? 3 A. In cases that it rises to me, I make the 4 decision. 5 Q. Well, in this case, in this Tailwind case? 6 A. Yes. 7 Q. And you recall at the end of the insurance 8 hearing I asked you would you do anything differently 9 and your answer was no that if you had it to do all 10 over again, you would do the same thing, right? 11 A. Well, I -- I would like to know what -- 12 Q. Well, I'll just ask you the question. 13 A. Okay. 14 Q. If you had to -- if you had it to do over 15 again, your handling of this claim, you wouldn't do 16 anything differently, would you? 17 A. No. 18 Q. And you're not going to pay the money? 19 A. It is not in our hands at this point. 20 Q. Well, I mean, you have no intention of 21 voluntarily paying the money? 22 A. No. 23 Q. You're not going to pay the money unless 24 you're ordered to by the tribunal? 25 A. That's correct.</p>
<p style="text-align: right;">Page 868</p> <p>1 contend that we owed them and we agreed to put that in 2 an escrow account with then Bank One, and they in turn 3 agreed that if the claim was not settled by March 1 of 4 the following year that we could remove the money from 5 escrow. 6 Q. Was the result litigated to conclusion? 7 A. The result was litigated to conclusion. 8 Q. And what was the ultimate litigated result? 9 A. The ultimate litigated result was that we 10 were to receive \$183,000 in attorney's fees as a 11 result of the litigation and that they were to receive 12 9,000 in damages. They appealed. The attorney's fee 13 award and the reward was canceled. The attorney's fee 14 award was canceled on appeal and the 9,000 actual 15 damages remained in place, but at that point Ameritech 16 communicated, unsolicited, to us that they were 17 willing to walk away from the entire thing. So I 18 think that they had serious doubts about it, were 19 just -- well, they -- they didn't -- we executed a 20 mutual release and paid them nothing. 21 MR. TILLOTSON: Thank you. Nothing 22 further. 23 RE-DIRECT EXAMINATION 24 BY MR. HERMAN: 25 Q. Let me just ask you a couple of questions.</p>	<p style="text-align: right;">Page 870</p> <p>1 Q. And in all likelihood, even if they order you 2 to, you're going to try to find a way around that, 3 too? 4 MR. TILLOTSON: I object to that. 5 ARBITRATOR FAULKNER: Sustained. Next 6 question. 7 MR. HERMAN: I pass the witness. 8 ARBITRATOR FAULKNER: We are going to 9 take a break for lunch right now. Mr. Hamman, you're 10 probably going to get to come back where you are 11 because I know that some of the panel members have 12 questions for you. So we'll break for an hour for 13 lunch. It's 12:30. We'll resume at 1:30. 14 (Recess 12:28 to 1:31 p.m.) 15 ARBITRATOR FAULKNER: We're going on the 16 record. Please proceed with your questions. 17 ARBITRATOR LYON: Mr. Hamman, have you 18 ever -- the amount of money that Lance Armstrong and 19 Tailwind was set to win if he won the Tour de France 20 in 2001 through 2004 was how much money total? 21 THE WITNESS: Nine and a half million 22 dollars. 23 ARBITRATOR LYON: Nine and a half. Just 24 from your company or from all of them? 25 THE WITNESS: From our company.</p>

Pages 867 to 870

<p style="text-align: right;">Page 871</p> <p>1 ARBITRATOR LYON: From your company. And 2 it's just interesting to me that those little -- those 3 few numbers up there, is that basically what y'all do 4 when y'all bet that kind of money? I mean, that's 5 what you're doing, you're betting 9.5 million bucks on 6 some probabilities on a sport that you have professed 7 you don't know much about. I'm just asking, do y'all 8 do that all the time?</p> <p>9 THE WITNESS: We have had risks as large 10 as 250 million present value.</p> <p>11 ARBITRATOR LYON: Really? And do you do 12 it based on just those kind of -- one sheet of paper 13 with somebody figuring odds?</p> <p>14 THE WITNESS: Well, depending on the 15 nature of it, but it could be as simple as an odds 16 calculation in some situations.</p> <p>17 ARBITRATOR LYON: Really? Let me ask 18 you, for 2001 through 2004 do you have any tests done 19 by anybody that show that Lance Armstrong used any 20 performance enhancing drugs?</p> <p>21 THE WITNESS: I don't believe there are 22 any tests.</p> <p>23 ARBITRATOR LYON: Is there any physical 24 evidence for 2001 through 2004 that Lance Armstrong 25 used any performance enhancing drugs?</p>	<p style="text-align: right;">Page 873</p> <p>1 THE WITNESS: Yes. 2 ARBITRATOR FAULKNER: Okay. What 3 specifically, if anything, did you do in the 4 underwriting phase to attempt to address these 5 concerns about moral hazard?</p> <p>6 THE WITNESS: Well, the sporting events 7 in general, the presumption is that we were dealing 8 with an individual that has less risk of moral hazard 9 and that the event itself had means of preventing the 10 moral hazards from taking place. For instance, to 11 cite an example, boxing is a sport we will not touch.</p> <p>12 ARBITRATOR FAULKNER: Any others that 13 immediately come to mind?</p> <p>14 THE WITNESS: Jai-Alai.</p> <p>15 ARBITRATOR FAULKNER: Fair comment. 16 Anything else you wish to add?</p> <p>17 THE WITNESS: Sports in areas where we 18 think any sport conducted in that environment would 19 be -- would have inherent additional risks.</p> <p>20 MR. TILLOTSON: Were there any 21 discussions between you on behalf of SCA or anyone 22 else on behalf of SCA, to your knowledge, with either 23 CHUBB or Swiss Re regarding any potential for moral 24 hazard in the underwriting of this risk?</p> <p>25 THE WITNESS: We weren't involved with</p>
<p style="text-align: right;">Page 872</p> <p>1 THE WITNESS: Not to my knowledge. 2 ARBITRATOR LYON: Okay. What is, in your 3 opinion, what performance enhancing drug do you allege 4 that he took from 2001 through 2004?</p> <p>5 THE WITNESS: We don't know.</p> <p>6 ARBITRATOR LYON: Okay. Thank you.</p> <p>7 ARBITRATOR FAULKNER: Mr. Chernick, any 8 questions?</p> <p>9 ARBITRATOR CHERNICK: No questions.</p> <p>10 ARBITRATOR FAULKNER: I have a couple, 11 Mr. Hamman. You have alluded numerous times during 12 your testimony to the reasons why you would not have 13 undertaken the risk had you known of certain alleged 14 activities by participants in the Tailwind team or 15 Mr. Armstrong. You've been in the insurance industry, 16 what, 30, 40 years now?</p> <p>17 THE WITNESS: I have been in the -- in 18 various phases of the insurance industry.</p> <p>19 ARBITRATOR FAULKNER: Are you familiar 20 with the concept of moral hazard?</p> <p>21 THE WITNESS: Yes.</p> <p>22 ARBITRATOR FAULKNER: Are you indicating 23 to this panel that the issues that you have been 24 addressing would fall within the general concept of 25 moral hazard?</p>	<p style="text-align: right;">Page 874</p> <p>1 CHUBB, and with respect to Swiss Re we do not address 2 the moral hazard.</p> <p>3 ARBITRATOR FAULKNER: Okay. Thank you 4 very much. Any other questions?</p> <p>5 ARBITRATOR CHERNICK: No questions.</p> <p>6 ARBITRATOR FAULKNER: Thank you, sir. I 7 believe you may step down.</p> <p>8 Mr. Herman, please call your next 9 witness.</p> <p>10 MR. HERMAN: Mr. Compton, please.</p> <p>11 CHRISTOPHER COMPTON, 12 having been first duly sworn, testified as follows:</p> <p>13 ARBITRATOR FAULKNER: Thank you. Please 14 proceed.</p> <p style="text-align: center;">DIRECT EXAMINATION</p> <p>15 BY MR. HERMAN:</p> <p>16 Q. Your name, please, sir.</p> <p>17 A. Dane Christopher Compton.</p> <p>18 Q. You're employed by SCA as an in-house 19 attorney?</p> <p>20 A. Yes.</p> <p>21 Q. You are the person who was principally 22 responsible for the conduct of the investigation 23 involving the claim that we are litigating now?</p> <p>24 A. Project manager.</p>

<p style="text-align: right;">Page 875</p> <p>1 Q. Does that mean that you were manager of the 2 investigation project? 3 A. Yes. 4 Q. And as the investigator for SCA you testified 5 in your deposition, did you not, that as the 6 investigator you took the position that what you 7 needed to prove was that Armstrong either doped during 8 the contract or before the contract, because either 9 way you think you win? 10 A. Once discovery began that's certainly the 11 position. 12 Q. And when I asked you what the state of the 13 investigation was as of June 17th, 2004, which was 14 over a month before the conclusion of the Tour de 15 France and two weeks before it started, when I asked 16 you while it's true as of June 17, 2004, you all were 17 already cooking up ways to avoid paying if, in fact, 18 Armstrong won, you answered, if you mean catching your 19 cheating client, yes, we were looking at catching your 20 cheating client; isn't that true? 21 A. I believe what I said by that was that if 22 your client had cheated, that we were entitled not to 23 be paid. 24 Q. Now -- 25 MR. TILLOTSON: Tim, I'm sorry, just in</p>	<p style="text-align: right;">Page 877</p> <p>1 one. 2 THE WITNESS: Okay. What's the line and 3 page reference, please? 4 MR. TILLOTSON: Page 117 -- 5 MR. HERMAN: Yeah, let's do this orderly. 6 Let me just call -- 7 MR. TILLOTSON: I'm sorry. I didn't mean 8 to interrupt. Go ahead. 9 Q. (BY MR. HERMAN) Let me just go to page 117, 10 line 15, and I'll just ask you the question and you 11 can answer it. 12 Well, it's true as of June 17th, 2004 you all 13 were already cooking up ways to avoid paying if, in 14 fact, Armstrong won, weren't you? Your answer? 15 A. I would refer you to page 117, line 24. By 16 June 17th, I couldn't have had my mind made up. 17 Q. What was your answer to my question was what 18 I asked. 19 A. If you mean catching your client, yes, we 20 were looking at catching your cheating client. 21 Q. You left out cheating in the first one? 22 A. I apologize, I just read it too quickly. 23 ARBITRATOR FAULKNER: Gentlemen, so that 24 we can keep this orderly, please, you ask the 25 question, you answer the question, and then your</p>
<p style="text-align: right;">Page 876</p> <p>1 the future, if you would give me page and line. 2 MR. HERMAN: Sure. 3 ARBITRATOR FAULKNER: We would appreciate 4 it all. 5 THE WITNESS: I'd also like a copy. And 6 in general, any document Mr. Herman wants me to 7 comment on I'm going to try and remember to stop and 8 ask for, because I have problems with the 9 characterizations, so can we stop now? 10 ARBITRATOR FAULKNER: We will note that. 11 If you can provide page and line, please provide it to 12 all of us, because I'm going to put it in my notes as 13 well. 14 MR. HERMAN: All right, sir, it's 15 page 117, lines 15 through 19. 16 ARBITRATOR LYON: Do you want a copy of 17 your deposition? 18 THE WITNESS: Yes, I do. 19 MR. HERMAN: Yes, it might be a good idea 20 for you to have a copy. 21 ARBITRATOR FAULKNER: I thought you had 22 one in the documents up there. If you'll please get a 23 copy of your own deposition, it will be helpful. 24 MS. EVORA: I have one. 25 ARBITRATOR FAULKNER: Ms. Evora may have</p>	<p style="text-align: right;">Page 878</p> <p>1 attorney will do whatever else he needs to do to bring 2 you back however he thinks he needs to if he thinks he 3 needs to, but just answer his question so that we can 4 keep this very clear. Proceed with your next 5 question, Counsel. 6 MR. TILLOTSON: Mr. Chairman, I'm going 7 to avoid optional completeness when reading stuff, 8 then. I'll just do that when I question him so we're 9 allowed to move along. 10 ARBITRATOR FAULKNER: Great. Thank you. 11 MR. TILLOTSON: Normally I would try to 12 read a bunch of portions, but I will just do it when I 13 question him. 14 ARBITRATOR FAULKNER: That's fine. 15 Proceed, please. 16 Q. (BY MR. HERMAN) On page 133. By way of 17 background, Mr. Compton, to be fair about it, you had 18 taken the position as a lawyer that SCA didn't have 19 any obligation to pay Tailwind until Tailwind actually 20 paid Armstrong, and it was in that line of questioning 21 that I asked the question. I said, well, as the, 22 quote, investigator, closed quote, have you taken that 23 position? And your answer on line 11 of page 133 is 24 what? 25 A. As the investigator, I've taken the position</p>

<p style="text-align: right;">Page 879</p> <p>1 that what I need to do is prove that the man either 2 doped during the contract or before the contract, 3 because we won't if I do that. 4 Q. My next question on line 15: And that's 5 precisely what you've done here, that's precisely what 6 you've undertaken to do since you began your 7 investigation; isn't that true? And your answer? 8 A. The word proved was too strong. Verify is a 9 better word. 10 Q. Okay. Now, let me move to the SCA contract 11 for a moment. If you'll look at Claimants' 12 Exhibit 17, it's the easiest -- it's the easiest 13 agreement -- the easiest copy to deal with. 14 MR. HERMAN: Would you put up slide 1, 15 Russell, please. 16 Q. (BY MR. HERMAN) You're a lawyer, correct? 17 A. Yes. 18 Q. You didn't have anything to do with the 19 preparation of the contingent fee contract form, I 20 take it? 21 A. No. 22 Q. Up there -- well, on page 1 of Exhibit 17, 23 you may refer to whichever one you wish, the type of 24 promotion is described as the cyclist incentive bonus 25 program, correct?</p>	<p style="text-align: right;">Page 881</p> <p>1 rules, changes. For instance, I believe they froze 2 bicycle specifications at one time. All of those 3 issues are going to be input from all of the teams, 4 and certainly a team as influential as one that had a 5 consecutive winner on it is going to have input into 6 the implementation and the conduct of the Tour de 7 France. 8 Q. Well, let me put that a different way. Does 9 Tailwind have any responsibility as the governing body 10 of the Tour de France? 11 A. No. 12 Q. Do you remember me asking you why a PGA 13 cyclist incentive bonus program was in this contract? 14 A. I don't recall if I remember you asking that. 15 Q. Well -- 16 A. I'm sure you did. 17 Q. All right. Okay. That's fair. 18 A. It's a mistake. 19 Q. Well, SCA prepared this contract? 20 A. SCA, I believe a salesperson at SCA prepared 21 the contract, yes. 22 Q. Well, were they authorized to act for SCA? 23 A. I would believe so. 24 Q. Well, you're not taking the position that 25 whatever SCA's obligations are, they're incorporated</p>
<p style="text-align: right;">Page 880</p> <p>1 A. Correct. 2 Q. Now, is it your position that promotion means 3 cyclist incentive bonus program or something else in 4 this agreement? 5 A. Something else. 6 Q. What else? 7 A. The Tour de France. 8 Q. Look at paragraph 3. See that at the very 9 last line of paragraph 3 it says that SCA is 10 indemnified by Sponsor's implementation or conduct of 11 PGA cyclist incentive program. And then I asked you 12 at your deposition did Tailwind have anything to do 13 with the conduct or implementation of the Tour de 14 France, and you agreed with me, I believe, that 15 Tailwind did not have anything to do with that. 16 A. No. 17 Q. You did not agree with me? 18 A. No. 19 Q. Okay. Tell me -- tell me what your position 20 is with respect to Tailwind's responsibility for the 21 conduct or implementation of the Tour de France. 22 A. Any time you have an organization that has 23 several teams, or let's say there's 20 teams entering 24 and one team has won six or seven times, 25 intracompetition there's going to be suggestions for</p>	<p style="text-align: right;">Page 882</p> <p>1 into this contract? 2 A. That question has a lot -- would you ask the 3 question again, please? 4 Q. You're not taking the position that whatever 5 SCA's contractual obligations are to Tailwind are not 6 incorporated in this contract, are you? 7 A. I don't believe so. 8 Q. Okay. Well, I believe you took the -- you 9 told me that that language in this contract was a big 10 mistake on the part of SCA. 11 A. Well, I believe I said it was a patent error, 12 because obviously this is not a PGA incentive bonus 13 program and that language convinced me that no lawyer 14 had reviewed this contract. 15 Q. All right. Look at page 88 of your 16 deposition, line 20. Are you there? 17 A. Yes. 18 Q. Okay. I asked you why does paragraph 3 refer 19 to the implementation or conduct of the cyclist 20 incentive PGA -- of the PGA cyclist incentive bonus 21 program. And your answer? 22 A. Well, Mr. Herman, you just said to me that I 23 believe -- you said to me, and we can read your 24 question, that that was a -- the biggest mistake by 25 SCA or something.</p>

<p style="text-align: right;">Page 883</p> <p>1 Q. Please read your answer. 2 A. My answer says we make mistakes, guys, but 3 that big a mistake we wouldn't -- we wouldn't have put 4 PGA, you know, incentive in this contract. 5 Q. Well, you also said that's the single biggest 6 clue that no lawyer ever looked at this because 7 obviously this language is from a PGA incentive clause 8 contract. 9 A. Yes. 10 Q. And never got rewritten. And you said we 11 make mistakes, guys, but that big a mistake we 12 wouldn't -- 13 A. Make. 14 Q. But you did. But you did make that big a 15 mistake. 16 A. We means lawyers, Mr. Herman. That's the 17 last thing in the last sentence. 18 Q. Oh, okay. So when you said we, you weren't 19 referring to SCA? 20 A. No. 21 Q. Now, you were put in charge of this 22 investigation project, but you had never, ever worked 23 on an incentive contract since you've been with the 24 company? 25 A. I believe I had done a couple of world record</p>	<p style="text-align: right;">Page 885</p> <p>1 I'm not trying to split hairs. I'm trying to 2 understand what you're saying. Have we ever litigated 3 that line in the contract, absolutely not, to my 4 knowledge, since 1998. 5 Q. All right. So what you're saying is that 6 this is the first time it's come up? 7 A. Yes, I think that would be a much fairer -- 8 Q. Okay. That's fair enough. 9 If Tailwind has nothing to do with the 10 implementation and conduct of the Tour de France, 11 other than entering a team, perhaps participating with 12 all the other teams in consulting roles, why would SCA 13 ask Tailwind to indemnify it from any claims that 14 result from Tailwind's implementation or conduct of 15 the Tour de France? 16 A. Because if they didn't implement or conduct 17 and we found out about it later, we would want that 18 indemnification. 19 Q. Is that why that's in there? 20 A. I actually think that that is a sentence that 21 is not overly artfully drafted and that it doesn't -- 22 well, it's very difficult. SCA is not a party to or 23 involved in the conduct of promotion and sponsor shall 24 indemnify SCA for any claims initiated as a result of 25 sponsor's implementation or conduct with the</p>
<p style="text-align: right;">Page 884</p> <p>1 contracts, which would be similar to incentive 2 contracts, but by and large, no. 3 Q. Well, I mean, you don't dispute the fact that 4 you told me you had never worked on an incentive 5 contract before? 6 A. I believe what I said was identical or very 7 similar to what I just said. 8 Q. Okay. This is the first time in the history 9 of SCA as far as you're aware that SCA has taken the 10 position that promotion doesn't mean what it says up 11 there, but means the event that's described on the 12 second page? 13 A. I would not agree with that. 14 Q. Okay. Did you tell me that? 15 A. Well, this says type of promotion, cyclist 16 incentive bonus. To my mind that's different than 17 saying promotion. 18 Q. Okay. But my question was whether or not 19 this was the first time SCA has taken the position 20 that promotion in the contract means something 21 different from the type of promotion that's described 22 up there. 23 A. SCA has had an incredibly few number of cases 24 go to litigation, and so when you say take a position, 25 I'm a little confused. Could you clarify for me --</p>	<p style="text-align: right;">Page 886</p> <p>1 promotion. 2 So to the extent I have any knowledge 3 about what it means, it would mean that if the sponsor 4 implemented or conducted the promotion, okay, that we 5 would be indemnified as a result of any claims 6 initiated from that conduct or implementation. 7 Q. Are you in possession of any information or 8 do you take the position that Tailwind conducts the 9 Tour de France? 10 A. I do not take the position that Tailwind is 11 responsible for the conduct of the Tour de France. 12 Q. Now, where is the only incentive bonus for a 13 cyclist mentioned other than on the second page of 14 this agreement? 15 A. Well, it's mentioned on the first page. 16 Q. Okay. Any other agreement that you know of 17 where it's mentioned? 18 A. Mr. Herman, with all due respect, I'm trying 19 to answer your question. Could you try it again? 20 First you asked me where is it other than on the 21 second page while you're looking at it on the first 22 page, and I know you're not trying to intentionally 23 mislead me, but it's a confusing question. We are all 24 looking at it. 25 Q. Well, I just asked you another question, what</p>

Pages 883 to 886

<p style="text-align: right;">Page 887</p> <p>1 other agreement is the cyclist incentive bonus program 2 contained in?</p> <p>3 A. This particular -- this is the entire, to my 4 understanding, the entire representation and the best 5 representation of our obligations for this program, if 6 that's what you're asking.</p> <p>7 Q. No, that's not what I'm asking. The 8 contract -- your contract 31122 refers to a cyclist 9 incentive bonus program. Where would one find the 10 conditions of the cyclist incentive bonus program?</p> <p>11 A. In a few places on the first page, on the 12 second page and within the underlying rules 13 underneath, in this case, the Tour de France.</p> <p>14 Q. So you think that the Tour de France rules 15 specify what incentive bonuses are due and how they're 16 to be paid and on what conditions?</p> <p>17 A. No.</p> <p>18 Q. Okay. Where would you find that?</p> <p>19 A. The incentive bonuses and what would be due 20 under what -- the incentive bonuses that would be due 21 are found in -- I think it's paragraph 2.b.</p> <p>22 Q. Okay.</p> <p>23 A. It's paragraph 3.</p> <p>24 Q. Paragraph 3?</p> <p>25 MR. HERMAN: Would you turn to just the</p>	<p style="text-align: right;">Page 889</p> <p>1 likely that they didn't ask for the underlying 2 contract either.</p> <p>3 Q. Okay. So I suppose when you asked for the 4 contract between Tailwind and Armstrong they refused?</p> <p>5 A. Mr. Herman, I just said we didn't ask for it.</p> <p>6 Q. Did you ever ask for it?</p> <p>7 A. Me personally, no.</p> <p>8 Q. Did SCA ever ask for it?</p> <p>9 A. I believe that, yes, SCA asked for it in an 10 e-mail of June 17th.</p> <p>11 Q. June 17th of 2004?</p> <p>12 A. Yes.</p> <p>13 Q. Three and a half years into the contract, 14 correct?</p> <p>15 A. I believe so, yes.</p> <p>16 Q. Now --</p> <p>17 A. Just a second. December 2001 -- no -- yes. 18 Yes, okay. Three and a half years.</p> <p>19 Q. Are we square?</p> <p>20 A. Yes.</p> <p>21 Q. Now, look at page 97 of your deposition, 22 actually the bottom of page 96 and starting at 23 page 97.</p> <p>24 A. Okay.</p> <p>25 Q. We were talking about this issue of the type</p>
<p style="text-align: right;">Page 888</p> <p>1 second page of Exhibit 17, Russell?</p> <p>2 MR. TILLOTSON: Excuse me. It would be 3 paragraph 3 of Exhibit A.</p> <p>4 MR. HERMAN: So the schedule of -- can 5 you blow that up?</p> <p>6 Q. (BY MR. HERMAN) Schedule of reimbursible 7 performance awards found in paragraph 3 of Exhibit A, 8 what's been called the meat and potatoes of your 9 agreement, and how do you know that those awards were 10 even payable by Tailwind to Mr. Armstrong?</p> <p>11 A. We accept the, you know, evidence of the 12 media surrounding the victory of the event as proof of 13 the victory.</p> <p>14 Q. But how do you know that Tailwind would even 15 owe the money to Mr. Armstrong?</p> <p>16 A. We cannot exist in a world where when you 17 come to us and say we want you to take an obligation 18 and we have an underlying obligation and we say to 19 you, well, before we take this obligation, you have to 20 show us the underlying contract, because never will we 21 be successful. No one will show us their knickers, 22 Mr. Herman. They won't show us the underlying 23 contracts. It's not how the industry works. You 24 would have to check with Lloyds and you would have to 25 check with CHUBB, but I would say to you that it's</p>	<p style="text-align: right;">Page 890</p> <p>1 of promotion, cyclist incentive bonus program. Do you 2 recall that?</p> <p>3 A. Yes.</p> <p>4 Q. We have to answer out loud.</p> <p>5 A. Sorry.</p> <p>6 Q. And then I asked you whether paragraph 3 7 meant something different than paragraph 7, which 8 talks about the conduct of the promotion. Do you 9 remember that?</p> <p>10 A. And now we are referring to the contract 11 again.</p> <p>12 Q. Yes, the SCA contract.</p> <p>13 A. And we are referring to the first page.</p> <p>14 Q. Correct.</p> <p>15 A. Okay.</p> <p>16 Q. Why is it that you take the position that the 17 language of PGA cyclist incentive bonus program is on 18 its very patent face obviously not supposed to be in a 19 contract about the Tour de France?</p> <p>20 A. Well, I believe type of promotion, cyclist 21 incentive bonus program, what's going on in my -- I 22 would be speculating, because I wasn't in the company 23 in the early years when the incentive clauses first 24 came into being, but it looks to me like when 25 incentive clauses came to be a product line in SCA</p>

<p style="text-align: right;">Page 891</p> <p>1 that they strapped them on to existing promotional 2 contracts and that as a result some inaccuracies and 3 some illogical things happened, and I wouldn't be able 4 to really say much more.</p> <p>5 Q. Well, you did take the opportunity to say 6 that it's wrong, it shouldn't be there. What should 7 be there in its place you don't know, correct?</p> <p>8 A. I think it should be type of contract now 9 that, you know, I've had time to reflect on it.</p> <p>10 Q. Okay. So is it your position or is it SCA's 11 position that if one were to interpret promotion in 12 the contract as meaning the cyclist incentive bonus 13 program that that would be an unreasonable 14 interpretation?</p> <p>15 A. If who were to interpret it?</p> <p>16 Q. If a reasonable person were to --</p> <p>17 A. I can't imagine thinking that anything other 18 than the victories in the Tour de France is what the 19 contract is about, so to the extent that anybody 20 thought any differently than that, yes, I would think 21 that was unreasonable.</p> <p>22 Q. Okay. And I think we have agreed that the 23 terms and conditions under which Tailwind would become 24 liable for incentive bonuses would be found in the 25 agreement between Tailwind and Armstrong, true?</p>	<p style="text-align: right;">Page 893</p> <p>1 intimately familiar with the risk that the company 2 insured?</p> <p>3 A. Well, for instance, I believe that there are 4 some small variances between our contract and their 5 contract. For instance, ours refer to victories in 6 the Tour de France tour years and the underlying 7 contract refers to number of victories which could 8 come into play if the 1999 L'Equipe tests were used to 9 strip them. Then there would not be mirrored 10 liabilities. I'm also familiar with some obscure 11 language that talks about in the event the insurance 12 doesn't become collectible.</p> <p>13 So while I was trying to oversee an 14 investigation, I did not, you know, spend hours 15 reviewing the underlying obligation. I didn't write 16 this contract. I'm not our promotion man, Mr. Bandy 17 is, and I didn't view that as what the task was. The 18 task was to determine whether or not the contract had 19 been materially changed.</p> <p>20 Q. All right. I asked you about this promotion 21 language and whether it was SCA's intention that the 22 language referred to Tailwind's conduct of the Tour de 23 France and you, I believe, agreed that it did not, 24 correct?</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 892</p> <p>1 A. If what you said was that a condition under 2 which Tailwind would be liable to Armstrong would be 3 under that condition, I believe that to be true.</p> <p>4 Q. And that's the agreement that you weren't 5 even aware of until I took your deposition; isn't that 6 right?</p> <p>7 A. Aware of? Of course I was aware. I was 8 under the assumption that there was an underlying 9 contract.</p> <p>10 Q. Well, don't -- that's -- that's not 11 accurately put. You hadn't reviewed --</p> <p>12 A. Yes, I had, Mr. Herman.</p> <p>13 Q. But you thought it was an agreement between 14 Capital Sports --</p> <p>15 A. Well --</p> <p>16 Q. -- and Mr. Gorksi, didn't you?</p> <p>17 A. -- if in the middle of the deposition I 18 appeared confused, I'm not surprised and I'm not the 19 first. And the document has multiple signature pages, 20 they had an addendum and is on one sort of letterhead 21 and this and that, yes.</p> <p>22 Q. Well, the only reason that I bring that up, 23 Mr. Compton, is that after having conducted this 24 investigation, which you claim to be ongoing for a 25 year and a half, do you find it odd that you weren't</p>	<p style="text-align: right;">Page 894</p> <p>1 Q. I mean, do you agree with me now? Whether 2 you agreed with me then --</p> <p>3 A. Obviously I've made my point about what part 4 I believe they play in the conduct and the 5 implementation. Having reserved that and having said 6 that, I agree with you.</p> <p>7 Q. Well, when we are talking about paragraphs 6 8 and 7 of the agreement --</p> <p>9 A. Yes.</p> <p>10 Q. -- you said, did you not -- if you look at 11 page 100 of your deposition, it might be easier to 12 follow along. You remember I asked you questions 13 about paragraphs 6 and 7 and just substituting the 14 Tour de France for the word promotion so that we could 15 incorporate your interpretation. Do you recall that?</p> <p>16 A. I believe so.</p> <p>17 Q. Okay. And you said you can do it however you 18 want on page 19 -- I mean, line 19 of page 100, but 19 what this language is about is that if you get three 20 basketball shots under your contract and you let them 21 take five, SCA is not responsible for the lawsuit that 22 comes out of the extra shots; is that right?</p> <p>23 A. Correct.</p> <p>24 Q. And I said okay. And then you said that's 25 what the language means, and then I say that's because</p>

<p style="text-align: right;">Page 895</p> <p>1 the sponsor is in control of the promotion, correct?</p> <p>2 And your answer was?</p> <p>3 A. Which means this language doesn't belong in</p> <p>4 this contract, which is what I've been trying to say.</p> <p>5 Q. And my question was, but it is in the</p> <p>6 contract, isn't it? And your answer?</p> <p>7 A. It is. I don't know why. I don't think it</p> <p>8 was looked at by a lawyer before it went out.</p> <p>9 Q. So with respect to this language in the</p> <p>10 sprinkling of promotion, the PGA and so forth, even</p> <p>11 you don't know what should be in there and you're a</p> <p>12 lawyer for the defendant or the respondent, correct?</p> <p>13 A. I don't agree with that. If I took the time</p> <p>14 to write an incentive contract, I could certainly</p> <p>15 accomplish the task.</p> <p>16 Q. If you took the time to write an incentive</p> <p>17 contract, it wouldn't look like this one, would it?</p> <p>18 A. It would have, as a direct result of this</p> <p>19 case, some changes.</p> <p>20 Q. What would you change?</p> <p>21 MR. TILLOTSON: Well, I would object as</p> <p>22 beyond the scope of relevant evidence for this</p> <p>23 proceeding. I seem to remember a rule about</p> <p>24 subsequent remedial procedures. I don't see how</p> <p>25 saying how would you redraft this contract in light of</p>	<p style="text-align: right;">Page 897</p> <p>1 January 9, 2001?</p> <p>2 A. I believe that you were present while we read</p> <p>3 an article from the Toronto Sun that was prior to that</p> <p>4 date.</p> <p>5 Q. Can you identify any statement by Tailwind of</p> <p>6 which SCA had knowledge prior to September --</p> <p>7 January 9, 2001?</p> <p>8 A. I believe in the Mitchelitch deposition</p> <p>9 there's some discussion of there having been some</p> <p>10 issue of doping discussed, otherwise I cannot. And I</p> <p>11 believe that our conversations were never with</p> <p>12 Tailwind, they were with ESIX, Tailwind's agent.</p> <p>13 Q. Well, I'm giving you the opportunity to tell</p> <p>14 me what representations were made by ESIX to Tailwind</p> <p>15 that you know of prior to January 9, 2001 -- I mean to</p> <p>16 SCA, I'm sorry.</p> <p>17 A. Try again, please.</p> <p>18 Q. Well, what representations were made by ESIX</p> <p>19 on behalf of Tailwind to SCA prior to January 9?</p> <p>20 A. Other than the deposition of Mr. Mitchelitch</p> <p>21 and Kelly Price and what might be contained therein, I</p> <p>22 would know of none.</p> <p>23 Q. You would know of none?</p> <p>24 A. No.</p> <p>25 Q. When is the first time that you know of that</p>
<p style="text-align: right;">Page 896</p> <p>1 this lawsuit will provide relevant evidence to this</p> <p>2 panel for deciding to this particular case.</p> <p>3 ARBITRATOR FAULKNER: What's your basis,</p> <p>4 Mr. Herman?</p> <p>5 MR. HERMAN: Your Honor, the witness has</p> <p>6 taken the position that much of this language that's</p> <p>7 critical -- I don't think it's critical, but</p> <p>8 apparently the issue is on the table about the</p> <p>9 interpretation of the contract. They've advanced an</p> <p>10 interpretation which we believe that the panel</p> <p>11 couldn't adopt anyway, but for this witness to</p> <p>12 identify that language which shouldn't be in here is,</p> <p>13 I think, critical to the panel's understanding that</p> <p>14 this contract at best is ambiguous. And what's wrong</p> <p>15 with it and how confusing it would be using their</p> <p>16 interpretation, I think, is helpful for the panel to</p> <p>17 understand.</p> <p>18 THE WITNESS: May I comment?</p> <p>19 ARBITRATOR FAULKNER: No. That's an easy</p> <p>20 one.</p> <p>21 Sustain the objection. Find another</p> <p>22 topic, please.</p> <p>23 Q. (BY MR. HERMAN) It's true, is it not,</p> <p>24 Mr. Compton, you cannot identify a single</p> <p>25 representation or statement by Tailwind which predated</p>	<p style="text-align: right;">Page 898</p> <p>1 any alleged misrepresentations by Tailwind that were</p> <p>2 relied upon by SCA were made known to Tailwind?</p> <p>3 A. Well, certainly Mr. Lynn's comments in open</p> <p>4 court, certainly my letters of approximately the month</p> <p>5 of September contain the word misrepresentations. And</p> <p>6 certainly, you know, no matter what you say, when you</p> <p>7 left court on December 20th, I believe that Mr. Lynn</p> <p>8 had made it clear to you that he believed that the</p> <p>9 improprieties by Lance Armstrong in the 2002 --</p> <p>10 2004 Tour de France and earlier relieved us of our</p> <p>11 obligation under the contract.</p> <p>12 Q. So are you saying that Mr. Lynn in some</p> <p>13 out-of-court statement to me outlined the</p> <p>14 representations which you now rely upon as</p> <p>15 misrepresentations relieving you from your obligations</p> <p>16 and enabling you to rescind the contract?</p> <p>17 A. No, those comments were made in open court,</p> <p>18 Mr. Herman.</p> <p>19 Q. I've asked for that about four or five times.</p> <p>20 MR. TILLOTSON: This is the copy of the</p> <p>21 transcript I referred to.</p> <p>22 THE WITNESS: May I get some water while</p> <p>23 everybody is looking at that?</p> <p>24 ARBITRATOR FAULKNER: Yes, go ahead and</p> <p>25 get some water. That's always the least comfortable</p>

Pages 895 to 898

<p>1 seat in the house.</p> <p>2 MR. TILLOTSON: Can we --</p> <p>3 MR. HERMAN: Your Honor, could I have</p> <p>4 about five minutes just to -- we have been talking</p> <p>5 about this and -- so I can read it.</p> <p>6 MR. TILLOTSON: That's fair.</p> <p>7 ARBITRATOR FAULKNER: Sure. Why don't we</p> <p>8 take, like, a ten minute -- this is what, some 60</p> <p>9 pages? We will give you, like, 15 minutes to read it.</p> <p>10 MR. HERMAN: Okay. Thank you, Your</p> <p>11 Honor.</p> <p>12 MR. TILLOTSON: Can we mark this as our</p> <p>13 next exhibit just so we have a number?</p> <p>14 ARBITRATOR FAULKNER: What is your next</p> <p>15 number?</p> <p>16 MS. EVORA: 84.</p> <p>17 ARBITRATOR FAULKNER: I think you already</p> <p>18 referred to it as Exhibit 84.</p> <p>19 (Recess 2:10 to 2:25 p.m.)</p> <p>20 ARBITRATOR FAULKNER: If you'll please</p> <p>21 resume the witness seat. Gentlemen, let's go back on</p> <p>22 the record. Mr. Herman, please proceed.</p> <p>23 MR. TILLOTSON: Let the record just</p> <p>24 reflect that we marked the transcript from hearings in</p> <p>25 a state court proceeding from December 20th, 2004 as</p>	<p>Page 899</p> <p>1 claim or not?</p> <p>2 A. I believe that the language shows in its</p> <p>3 entirety here that the overall statement, it is clear</p> <p>4 to everyone in that courtroom that -- that due to</p> <p>5 improprieties that we were in a position that we were</p> <p>6 going to deny the claim, yes.</p> <p>7 Q. Well, looking at page 9, as you have</p> <p>8 suggested that we do, if you'll look at page -- I</p> <p>9 mean, at line 21, Mr. Lynn says, circumstantially show</p> <p>10 that a lot of what occurred in the race of 2004 was</p> <p>11 not according to the rules of the Tour de France.</p> <p>12 That was the basis, correct?</p> <p>13 A. I believe that all of this paragraph,</p> <p>14 beginning with line 2 of page 9 continuing to</p> <p>15 somewhere -- approximately line 25 of page 10, in its</p> <p>16 entirety makes it clear to you and the world that we</p> <p>17 are not going to be paying your claim due to</p> <p>18 improprieties relating to Mr. Armstrong's use of</p> <p>19 performance enhancing drugs.</p> <p>20 Q. But there's no mention in here of any</p> <p>21 misrepresentation by Tailwind, is there?</p> <p>22 A. Well, it's our position that the man cheated,</p> <p>23 so we don't have to pay.</p> <p>24 Q. Well, when you decided to file your pleadings</p> <p>25 in this case in April of 2005, your defenses were that</p>
<p>1 Respondents' Exhibit 84. We obtained that transcript</p> <p>2 and will vouch for its authenticity from the court</p> <p>3 reporter.</p> <p>4 MR. HERMAN: I'll stipulate it.</p> <p>5 ARBITRATOR FAULKNER: You'll stipulate to</p> <p>6 it? Then it's admitted as Exhibit 84. Please</p> <p>7 proceed.</p> <p>8 Q. (BY MR. HERMAN) Mr. Compton, are you</p> <p>9 familiar with the contents of Respondents' Exhibit 84?</p> <p>10 A. I read it during the break.</p> <p>11 Q. Okay. So you wouldn't be in a position to</p> <p>12 point out where it was in there that you claim that</p> <p>13 Mr. Lynn denied the claim?</p> <p>14 A. Well, what I was pointed to was page 9.</p> <p>15 Q. By Mr. Tillotson?</p> <p>16 A. Yes, but I was present during the hearing and</p> <p>17 I do recall this conversation.</p> <p>18 Q. Well, on page 10, if you look at line 17</p> <p>19 through 20, that's Mr. Lynn speaking, he says we have</p> <p>20 not gotten to the point where we can make these</p> <p>21 allegations we wish to make and resolve them in a</p> <p>22 manner that is legally justifiable because of</p> <p>23 Mr. Armstrong and his lawyers. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Well, had you -- had you decided to deny the</p>	<p>Page 900</p> <p>1 you -- that Tailwind misrepresented to you and</p> <p>2 fraudulently induced you, but you don't make a single</p> <p>3 notation of any statement, representation, direct or</p> <p>4 indirect, that you claim you relied upon in</p> <p>5 Exhibit 84, do you?</p> <p>6 A. I don't believe that we make any specific</p> <p>7 statements.</p> <p>8 Q. The first time any of the alleged</p> <p>9 misrepresentations upon which you now rely as a</p> <p>10 defense to your obligations under 31122 were first</p> <p>11 made known to Tailwind on April the 4th of 2005,</p> <p>12 weren't they?</p> <p>13 A. Well, I guess if you were on Mars, you would</p> <p>14 have been confused about whether or not we were going</p> <p>15 to pay based on misrepresentations.</p> <p>16 Q. Well, I can assure you that I was right here</p> <p>17 on, you know, on Mother Earth, but how would I have</p> <p>18 known the specific misrepresentations that you were</p> <p>19 relying upon? Can you point to any document that lays</p> <p>20 out the four misrepresentations which you have told</p> <p>21 this panel that were critical to SCA when it entered</p> <p>22 this agreement? Can you point out any document that</p> <p>23 outlined those, that informed Tailwind that those were</p> <p>24 the misrepresentations?</p> <p>25 A. I believe you're characterizing the statute</p>

Pages 899 to 902

Page 903	Page 905
<p>1 as requiring us to lay out specific misrepresentations 2 and I think the language of the statute doesn't 3 require that. 4 Q. Well, I guess in answer to the question I 5 asked it would be no, you can't point to any document, 6 other than your pleading of April the 4th of 2005? 7 A. I have -- as you're asking about specific 8 misrepresentations, I agree with you. However, my 9 letters in the month of September use the word 10 misrepresentations. So if you were confused, I 11 apologize. 12 Q. Well, you're obviously referring to 13 something. Could you refer me to it? 14 A. Well, I'm not referring to the exact place, 15 but if you look at our letters in September -- 16 Q. What exhibit number is that? That would be 17 helpful. 18 A. I'm not looking at it at the moment, 19 Mr. Herman. I mean, I'm looking at one of them. 20 Q. Well, let's -- 21 A. Let me just say that there are letters of 22 approximately September 2, 7, 21 and 23, some of those 23 letters you're going to find my writing or 24 Mr. Hamman's writing are going to have the words 25 misrepresentation.</p>	<p>1 A. And my letter. 2 Q. Okay. Can you identify specifically what 3 misrepresentations you claim? 4 A. I stated that I cannot identify specific 5 misrepresentations but that I don't believe the 6 statute requires it. 7 Q. Okay. And all I'm trying to do -- I'm not 8 trying to argue with you, all I'm trying to do is see 9 if you agree that the first time the actual 10 misrepresentations upon which you rely for a defense 11 were first identified to Tailwind on April the 4th? 12 A. Did you use the word specific in your 13 question? 14 Q. Yes. 15 A. As I sit here today, without having time to 16 review all my correspondence, I would agree with that. 17 Q. Now, do you have -- you've got the Claimants' 18 Exhibits there in front of you, do you not? 19 A. I think so. 20 Q. Well, turn to Claimants' Exhibit 1 for a 21 moment. 22 MR. TILLOTSON: This is in the large 23 black binder next to you. Those are Claimants' 24 Exhibits. 25 THE WITNESS: Okay.</p>
Page 904	Page 906
<p>1 Q. Okay. 2 A. There's a letter of September 10. 3 MR. TILLOTSON: If you'll identify, if 4 you'll refer to exhibits, please. 5 THE WITNESS: Well, I've got to find it 6 first. 7 ARBITRATOR FAULKNER: Slow down a little 8 bit. We don't take notes as quickly as our shorthand 9 reporter does. 10 THE WITNESS: Okay. 11 ARBITRATOR FAULKNER: Thanks. 12 Q. (BY MR. HERMAN) Well, yeah, I have no 13 dispute that your letters contain the word 14 representations, but can you tell me when it was, 15 other than April 4, 2005, that you told Tailwind that 16 you were denying the claim because they misrepresented 17 something? 18 A. I believe that the letters which I would need 19 to take time to review, several letters, make it clear 20 that we are examining misrepresentations as a possible 21 defense. 22 Q. True. So when was it that you identified 23 which misrepresentations you were claiming as a 24 defense? You can't point to anything other than the 25 pleading of April 4, 2005, can you?</p>	<p>1 Q. (BY MR. HERMAN) Which is the Tailwind 2 contract. Do you agree that it is Tail -- I think 3 you've already agreed that it's Tailwind's liability 4 under that contract which was insured by SCA? 5 A. I do not agree that SCA has issued an 6 insurance contract; however, I recognize that for the 7 purposes of this hearing, this contract 31122 has been 8 deemed to be an insurance contract. 9 Q. Okay. 10 A. Having said that once, I will hope that I -- 11 I respect the panel's ruling and I don't repeat 12 myself. I just don't want to be confused and be 13 quoted as having admitted that we issue an insurance 14 contract. 15 Q. We can agree about indemnified? 16 A. Yes. 17 Q. So is the answer to my question yes, that is 18 the risk that you indemnified? 19 A. The risk that we indemnified, and the best 20 evidence of the risk that we indemnified is contract 21 31122. 22 Q. Is Tailwind's liability under Claimants' 23 Exhibit 1 the risk that you indemnified? 24 A. Yes, I believe so. 25 Q. Now, I asked you in this conduct of your</p>

Pages 903 to 906

<p style="text-align: right;">Page 907</p> <p>1 investigation if you did a coverage analysis, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Do you remember that? And we talked about 4 that and I -- and I asked you what your -- what did 5 you think when you read the substantive provision that 6 SCA was indemnifying Tailwind's liability and I think 7 you answered -- if you want to turn to page 128, 8 line 21 through 25. In conducting this analysis, on 9 line 25 what did you answer?</p> <p>10 A. Okay. First of all, I completely don't 11 understand this question. Could you try it again? I 12 can read you what I said on line 25. I thought we 13 needed proof of Tailwind's liability.</p> <p>14 Q. Okay.</p> <p>15 A. If that's the question, then that's the 16 answer.</p> <p>17 Q. Well, I -- to be fair about it, to be 18 complete about it, I asked you did you review and 19 analyze the contract that governed your obligations in 20 this case. You said, well, it's two pages. I don't 21 know to what extent you can review and analyze it, but 22 I certainly read it. Then I asked you did you read 23 the substantive provision about indemnifying 24 Tailwind's liability, and you answered I thought we 25 needed proof of Tailwind's liability, correct?</p>	<p style="text-align: right;">Page 909</p> <p>1 Q. Why was the existence of Tailwind's liability 2 so important for you to determine when you read the 3 insuring provision in the SCA contract, why was it 4 that you went to look and see if -- to see if Tailwind 5 was liable?</p> <p>6 A. Because if the indemnitee has no liability, 7 then the indemnitor has no liability. So it is a 8 condition precedent to the possibility of the 9 indemnitee being liable -- I've got it backwards -- to 10 the indemnitor being liable that the indemnitee have 11 liability. So it would be the absolute first step, 12 because if the indemnitee had no liability, then the 13 indemnitor's liability is extinguished. That is the 14 essence of a contract of indemnification.</p> <p>15 Q. The converse of that's true, isn't it?</p> <p>16 A. You're going to have to ask me a question.</p> <p>17 Q. Well, if the indemnitee is liable, the 18 indemnitor is liable?</p> <p>19 A. If the indemnitee is liable and our contract 20 under 31122 has been complied with and the contract 21 hasn't been materially changed, yes, among other 22 terms, that term especially, then we are liable.</p> <p>23 Q. So if the indemnitee is not liable, you're 24 not liable; but if the indemnitee is liable, you're 25 still not liable?</p>
<p style="text-align: right;">Page 908</p> <p>1 A. Yes. Now, as we sit here today and I'm 2 having these questions from you, I'm confused whether 3 you are referring to 31122 or the October 10th, 2000 4 Capital Sports Entertainment contract. Which are we 5 talking about?</p> <p>6 Q. Well, we are not talking -- we are talking 7 right now about your answer indicating that you needed 8 proof of Tailwind's liability.</p> <p>9 A. I will stick by that, that, yes, I believe we 10 needed proof of Tailwind's liability.</p> <p>11 Q. Have you gotten proof of Tailwind's 12 liability?</p> <p>13 A. I believe so.</p> <p>14 Q. All right. So why didn't your investigation 15 end there?</p> <p>16 A. Because it had materially been -- the 17 contract had been materially breached under 18 paragraph 6.</p> <p>19 Q. The SCA contract?</p> <p>20 A. Yes.</p> <p>21 Q. Despite Tailwind having liability?</p> <p>22 A. If what you're arguing is that Lance 23 Armstrong's cheating is irrelevant to our having to 24 pay, then I suggest that if you admit he cheated, 25 we'll have a different conversation.</p>	<p style="text-align: right;">Page 910</p> <p>1 A. Our contract is very clear, paragraph 6 of 2 page 1. It says if the conditions differ in any 3 material manner, all right, and we haven't given 4 written approval, then the contract is null and void. 5 So to whatever extent we are talking of the liability 6 of an indemnitee and an indemnitor, it doesn't erase 7 paragraph 6.</p> <p>8 Q. That's the same paragraph 6 that you say 9 should apply only in case of shooting basketballs 10 where the sponsor doesn't comply with a promotion he's 11 conducting?</p> <p>12 A. No, Mr. Herman, that's paragraph 7 that I was 13 talking about.</p> <p>14 Q. Even though promotion is used in both 15 paragraphs, it means different things?</p> <p>16 A. Paragraph -- no. Paragraph 6 makes complete 17 sense when read in light of the overall contract. 18 Paragraph 7 is not as clear.</p> <p>19 Q. Let me ask you this. You left out part of 20 paragraph 6 in your answer. What conditions of the 21 Tour de France -- well, strike that.</p> <p>22 Point to one representation by Tailwind 23 that had anything to do with the conduct or 24 implementation of the Tour de France.</p> <p>25 A. I don't know the date, but it's a 1999</p>

Pages 907 to 910

<p style="text-align: right;">Page 911</p> <p>1 Toronto Sun article where Mr. Gorski talks about he 2 has an absolute clear intent. 3 Q. You didn't even know about that statement 4 when you wrote this -- when you issued this contract, 5 did you? 6 A. We were certainly aware of the fact that they 7 were proclaiming that the Tour de France had 8 rededicated itself to the tour of rejuvenation, okay. 9 Q. Okay. Hold on. Hold on. 10 A. I don't know -- let me rephrase it. I wasn't 11 involved in negotiating the contract. I didn't write 12 the contract. To ask me what SCA was aware of at that 13 time is a futile exercise. 14 Q. Well, in connection with your investigation, 15 which I understand you take the position it is ongoing 16 as we speak, correct? 17 A. Can't stop people from contacting me. 18 Q. Is that what you meant when you said the 19 investigation is ongoing? 20 A. That's part of what I meant. 21 Q. Any statement by Tailwind about anything was 22 unknown to anyone at SCA as of January of 2001? I 23 mean, we have agreed about that, haven't we? 24 A. I don't know how you can ask me a question. 25 Any statement about anything of Tailwind was unknown</p>	<p style="text-align: right;">Page 913</p> <p>1 A. Let me say -- we hired a personal public 2 relations firm that we had do media searches, okay. 3 They gave us a binder full of media searches. I would 4 assume that that document, okay, contained this and 5 that I read it at that time. When exactly all that 6 occurred, before or after the claim was made, I don't 7 believe I would have been aware of this before the 8 claim was made. 9 Q. Okay. 10 A. It makes no sense to me. 11 Q. Where is that binder? 12 A. It's part of -- it's -- it's in my -- the 13 binder itself is in my office. 14 Q. In connection with your, quote, underwriting 15 of this claim and evaluation of the risk, you didn't 16 review all of the media, you didn't hire a public 17 relations firm to give you all of the information that 18 you got after the claim was made? 19 A. Mr. Herman, I didn't have anything to do with 20 underwriting of the contract. 21 Q. I'm using the generic you, SCA. 22 A. Well, if -- 23 MR. TILLOTSON: I'm sorry. I have to 24 interpose an objection. The witness has on numerous 25 occasions stated his lack of foundation to answer</p>
<p style="text-align: right;">Page 912</p> <p>1 to anyone in 2001 at SCA. It has 70 employees in 2 Dallas and employees in other places. I can't answer 3 that question. 4 Q. So why is it, then, if you can't answer that 5 question you're in charge of the investigation that 6 you, as a lawyer at SCA, would authorize the 7 representation to this panel that Tailwind made the 8 four representations that are laid out in your -- in 9 your pleadings? How could you do that? 10 A. I think you're overstating my authority. We 11 hire outside litigators; they wrote the pleadings. 12 Some of the pleadings we had a chance to review and 13 comment on, not all of them. And if you think I'm in 14 charge of the pleadings, then you're over -- you've 15 got me on a pedestal that I'm not on. 16 Q. When did you come across the Toronto 17 newspaper article, before or after the claim was made 18 in this case? 19 A. Myself? How could I have come across it 20 before -- before or after the claim was made in this 21 case? After. 22 Q. Well, it would have been hard for you to rely 23 upon it if you hadn't come across it before, right? 24 It would be hard for SCA to rely upon that article if 25 they had no knowledge of the article.</p>	<p style="text-align: right;">Page 914</p> <p>1 certain questions for 2001. So I would object as lack 2 of foundation. The witness is being asked to 3 speculate after repeatedly saying he wasn't involved 4 in that. 5 ARBITRATOR FAULKNER: Any response, 6 Mr. Herman, and then -- 7 MR. HERMAN: Let me just ask a series of 8 different questions to lay the foundation. 9 ARBITRATOR FAULKNER: Actually, and if 10 you would indicate instead of you SCA, it might be 11 very helpful. 12 MR. HERMAN: All right, I'll do that. 13 ARBITRATOR FAULKNER: Thank you. 14 Q. (BY MR. HERMAN) As the investigator or 15 program manager or director or whatever you refer to 16 yourself as as it relates to this case, did you in 17 connection with your evaluation and analysis of the 18 claim go back, review the files that relate to this 19 particular contract? 20 A. There is only one file, but I did review it. 21 Q. Okay. And I suppose it had within it all of 22 the Tailwind statements upon which you now say you 23 relied when you entered into the contract? 24 A. I'm not sure what you were asking me. There 25 were no statements in there.</p>

Pages 911 to 914

		Page 915	Page 917
1	Q. Was there an application in there?		1 relationships.
2	A. At the time we didn't think we were an	2 Q. So the answer to my question is you don't	
3	insurance company. We've never asked for an	3 know?	
4	application from anyone. No, there was no	4 A. Correct.	
5	application.	5 Q. Okay. Fair enough. Do you -- are you	
6	Q. Was there a questionnaire?	6 familiar with Generally Accepted Accounting	
7	A. No.	7 Principles, I mean, the concept of that, GAAP?	
8	Q. Was there any copy of the Tailwind/Armstrong	8 A. I've certainly heard the word GAAP, yes.	
9	contract that you got ahold of before June the 17th of	9 Q. And do you know whether or not, for example,	
10	2004?	10 Ernst & Young has -- well, you've been informed that	
11	A. I believe you asked me that and I've answered	11 Ernst & Young has required Tailwind to book this \$5	
12	no.	12 million as a loss?	
13	Q. All right. So that's it, that's all that was	13 A. Correct.	
14	in the contract file?	14 Q. Is that adequate proof of their liability to	
15	A. The contract file is probably less than half	15 you?	
16	an inch, quarter of an inch thick, what I would be --	16 A. No.	
17	the original contract.	17 Q. Let me -- let's go back to that period	
18	Q. Okay. Now, did you go back in your -- in	18 immediately following the conclusion of the Tour de	
19	your capacity as -- as the investigator and question	19 France of 2004. If you would turn to page -- I mean	
20	Mr. Hamman about representations that he may have	20 to Claimants' Exhibit 69.	
21	relied upon?	21 ARBITRATOR FAULKNER: Would you repeat	
22	A. Yes.	22 that number, please?	
23	Q. And did he answer anything differently than	23 MR. HERMAN: Claimants' Exhibit 69.	
24	he answered me in his deposition?	24 ARBITRATOR FAULKNER: Thank you.	
25	A. No.	25 Q. (BY MR. HERMAN) The brains of my operation	
		Page 916	Page 918
1	Q. And when I asked you in your deposition -- I	1 here has pointed out something to me, so I need to	
2	mean, I think you candidly admitted you know of no	2 follow up on that.	
3	representations ever made by Tailwind about anything,	3 When was this public relations firm hired	
4	that is, you didn't know about it as of the date of	4 to collect all these articles and so forth?	
5	the claim?	5 A. Sometime in September.	
6	A. Correct.	6 Q. Of 2004?	
7	Q. And you've gathered all of these --	7 A. I think so.	
8	A. Well, let me amend that. No specific	8 Q. Okay. Who was it?	
9	representations.	9 A. Jackson Harrell.	
10	Q. Okay.	10 Q. And did this binder of all these articles and	
11	A. Certainly Mr. Stapleton is viewed as a	11 so forth, you utilized that in your investigation of	
12	defender of Mr. Armstrong and certainly Mr. Stapleton	12 the claim and in your preparation of defense for the	
13	has made numerous statements defending Mr. Armstrong's	13 claim?	
14	position of not ever having used performance enhancing	14 A. I reviewed it.	
15	substances.	15 Q. Okay. Did you produce it?	
16	Q. Do you know if Mr. Stapleton had any	16 A. I believe it's in documents given, but I'm	
17	relationship or capacity with Tailwind at the time you	17 not certain. There -- did I -- look, when you asked	
18	all entered this contract?	18 me if I produced it, I'm answering incorrectly. I	
19	A. Despite our discovery requests to figure out	19 produced nothing. My lawyers produced it.	
20	how all the companies relate, we are confused as to	20 MR. TILLOTSON: Mr. Herman, I believe it	
21	how they relate. However, it looks to me like Capital	21 was produced and we have identified it through Bates	
22	Sports Entertainment fired Gorski and replaced Gorski	22 numbers.	
23	with Mr. Stapleton. So I trust that between	23 MR. HERMAN: Okay. If you wouldn't mind	
24	Mr. Weisel and Mr. Armstrong and Mr. Stapleton and	24 doing that later on, I'd appreciate it.	
25	Mr. Gorski that there are some supervisory	25 Q. (BY MR. HERMAN) But let me ask you this,	

Pages 915 to 918

<p style="text-align: right;">Page 919</p> <p>1 what happened to the -- when we asked you to produce 2 the e-mails, let's say, that had to do with your claim 3 investigation and adjustment, you didn't produce a 4 single e-mail. 5 A. Mr. Herman, those are my litigators. They 6 did the litigation production. I'm not a litigator. 7 I didn't do the litigation review. 8 Q. So is the answer yes or no that -- 9 A. The answer is I don't know what was produced 10 to you. 11 Q. Okay. But you took eight to ten boxes down 12 to your lawyer's office, correct? 13 A. No. I don't want to play games with you. 14 There were eight to ten boxes of documents produced at 15 my lawyer's office. I didn't take them anywhere. 16 Q. I didn't mean that you necessarily and 17 physically. You might have had somebody take them 18 down there, but again -- okay. My fault. SCA dumped 19 or printed out eight to ten boxes of documents that 20 had to do with this claim and investigation; isn't 21 that true? 22 A. No. 23 Q. Okay. Where did the eight to ten boxes come 24 from? 25 A. Pinnacle.</p>	<p style="text-align: right;">Page 921</p> <p>1 I don't know what was produced. 2 Q. Well, certainly there were e-mails that 3 related to your investigation of this claim and 4 e-mails that related to your contact with alleged 5 witnesses and so forth? 6 A. Yes. 7 Q. And I guess it's your position you don't know 8 whether those were provided or not? 9 A. No, it's my position that you're telling me 10 they weren't, so I'll trust you and believe they 11 weren't. 12 Q. What were your -- what instructions did you 13 give Jackson Harrell with respect to the accumulation 14 of these articles? 15 A. Jackson Harrell hired a PR consultant who did 16 a search for us and later on we realized we could just 17 about do the same searches through Lexis and Nexis. 18 Q. All right. Now, after the -- well, will you 19 take my word for this at least that the Tour de France 20 concluded on July 25th, 2004? 21 A. If that's the day -- yes. I -- actually it's 22 the 24th, but that's okay. 23 Q. I'm trying to build trust here. 24 MR. TILLOTSON: Can you provide us some 25 documentation, please?</p>
<p style="text-align: right;">Page 920</p> <p>1 Q. What is that? 2 A. That's a reproduction company that's in the 3 floor underneath the offices of Lynn, Tillotson & 4 Pinker. 5 Q. So what did they do? 6 A. I think they blew back, which is a term I 7 don't really understand, a file that I gave, an 8 electronic file. 9 Q. So you gave them an electronic file of all 10 the -- everything that related to this investigation? 11 A. Of everything that related to my work in this 12 matter. 13 Q. So assuming it was eight boxes, do you know 14 what happened to the other seven and three-quarters 15 boxes besides what we got? 16 A. There was a huge amount of duplication. All 17 the depositions were in there one or two times, the 18 book was in there four or five times. When you 19 whittle it down to however many actual pages it was I 20 believe you got about 1400 pages of documents. I'm 21 not sure. I'm relying on what you've said in my 22 deposition. 23 Q. We didn't get a single e-mail that had your 24 fingerprints on it from July 2004 forward, did we? 25 A. I don't know, Mr. Herman. I've stated to you</p>	<p style="text-align: right;">Page 922</p> <p>1 Q. (BY MR. HERMAN) Okay. Turn to Exhibit 69. 2 A. I'm there. 3 Q. Did you -- did you prepare this document? 4 A. Under -- with consultation of counsel and 5 under their advice, yes, I prepared this document. 6 Q. All right. And it's true, is it not, that 7 there would be -- there could be no way to anticipate 8 litigation unless you anticipated not paying the 9 claim? 10 A. No. 11 Q. So you thought there would be litigation if 12 you did pay the claim? 13 A. It was possible. 14 Q. What sort of -- 15 A. We might pay the claim and then sue to 16 collect it. 17 Q. Okay. Well, in any event, two days after the 18 Tour de France was over, you write Mr. Galloway and 19 indicate that you're requesting the investigation in 20 anticipation of litigation, correct? 21 A. Under advice of counsel, yes. 22 Q. Are you talking about outside counsel? 23 A. Yes. 24 Q. When did you hire lawyers to assist you in a 25 matter that was at most 48 hours old?</p>

Pages 919 to 922

<p>1 A. Probably on the day before. The letter got 2 drafted, went back and forth by e-mail, had some 3 revisions, maybe Mr. Bandy saw it, maybe Mr. Bandy 4 didn't see, maybe Mr. Hamman saw it, maybe he didn't 5 see it.</p> <p>6 Q. So you went out and hired a lawyer the day 7 after the Tour de France?</p> <p>8 A. Mr. Herman, I know lawyers all over the 9 country. I don't have to go out and hire lawyers. If 10 I want something done, I send an e-mail and it gets 11 done.</p> <p>12 Q. I've got to confess, that's better than 13 people treat me, but --</p> <p>14 A. You need the big checks.</p> <p>15 ARBITRATOR CHERNICK: Could we pause for 16 two minutes so I can have a conference with my 17 colleagues here?</p> <p>18 MR. HERMAN: Sure.</p> <p>19 (Recess 2:57 p.m. to 3:09 p.m.)</p> <p>20 ARBITRATOR FAULKNER: Okay, Mr. Compton, 21 you're still under oath. Please proceed.</p> <p>22 MR. HERMAN: Thank you.</p> <p>23 Q. (BY MR. HERMAN) I believe we were talking 24 about Exhibit 69 when we took a break there, 25 Mr. Thompson.</p>	<p>Page 923</p> <p>1 of Lance Armstrong from the time he was 18 years old? 2 A. Allegations of doping at -- from a young age. 3 Q. Was there anything in the contract that 4 either required the provision of that document -- of 5 those documents or authorized the provision of those 6 documents?</p> <p>7 A. No.</p> <p>8 Q. What about the request for all information 9 relating to syringes, inhalers, et cetera of any 10 person associated with the United States Postal 11 Service team, Tailwind, Disson Furst or ESIX 12 Entertainment and Sports, what gave you the notion 13 that you were entitled to that information?</p> <p>14 A. Knowledge of Mr. de Vriese's forged affidavit 15 regarding the fact that he claimed Activogen for use 16 as his diabetic -- diabetes.</p> <p>17 THE REPORTER: I'm sorry, I didn't 18 understand.</p> <p>19 MR. TILLOTSON: Repeat your answer, 20 please.</p> <p>21 A. Knowledge of Mr. de Vriese's forged affidavit 22 that the Activogen found in one of the Tours de France 23 was for use as a diabetic.</p> <p>24 Q. (BY MR. HERMAN) So you knew that Mr. de 25 Vriese had forged an affidavit as of July 27th, 2004?</p>
<p>1 A. Had I concluded my answer?</p> <p>2 Q. I'll be happy for the question and answer to 3 be read back. I don't recall. If I had a pending 4 question, I'll withdraw it because I couldn't possibly 5 read it anyway.</p> <p>6 MR. TILLOTSON: Why don't we just start 7 again.</p> <p>8 ARBITRATOR FAULKNER: Just go ahead and 9 start over.</p> <p>10 Q. (BY MR. HERMAN) With respect to the various 11 categories of information that you were requesting 12 Mr. Galloway to recover, where did you -- where did 13 you come up with what to ask for?</p> <p>14 A. Well, I began by trying to determine what 15 relevant information would help us make a 16 determination as to whether the claim was valid or 17 not.</p> <p>18 Q. Well, did you have in mind recovering 19 information or evidence relating to Mr. Walsh's 20 allegations?</p> <p>21 A. Among other things, certainly, yes.</p> <p>22 Q. And can you tell me -- I believe you were 23 here yesterday when I was questioning Mr. Hamman, but 24 can you tell me what you relied upon contractwise that 25 you thought entitled you to a complete medical history</p>	<p>Page 924</p> <p>1 A. It's in the book.</p> <p>2 Q. Okay. SCA has no contract with Mr. de 3 Vriese, correct?</p> <p>4 A. No.</p> <p>5 Q. SCA has no contract with USPS?</p> <p>6 A. No.</p> <p>7 Q. SCA has no contract with ESIX Entertainment 8 and Sports?</p> <p>9 A. To the extent that they were the agent of 10 Tailwind and we have a contract with Tailwind, 11 otherwise, no.</p> <p>12 Q. And SCA has no contract with Mr. Armstrong?</p> <p>13 A. To the extent Mr. Armstrong is an employee of 14 Tailwind, yes; otherwise, no.</p> <p>15 Q. Where did you find the names or how did you 16 arrive at the names of the individuals that you wanted 17 Mr. Galloway to contact and interview?</p> <p>18 A. Well, I see that I have Philippe Gaumont's 19 name wrong, so I'm wondering where I got that. Those 20 are all names connected with cycling, American Cycle, 21 the Tour de France. I see Tyler Hamilton on here. 22 Tyler Hamilton is an accused -- there was an 23 incident -- let's see, July 27th. No. So these are 24 the most logical names I can think of that would have 25 relevant information as to whether or not</p>

Pages 923 to 926

<p style="text-align: right;">Page 927</p> <p>1 Mr. Armstrong had, in fact, used performance enhancing 2 substances. How I came up with them, I mean they all 3 look like a fairly logical collection of names here. 4 Q. You requested Mr. Galloway to contact and 5 interview these people, correct? 6 A. Yes. 7 Q. As of July 27, 2004 was it -- is it your 8 testimony that you were attempting to comply with the 9 September 3 date for payment? 10 A. Yes, we were trying to determine whether or 11 not the claim was valid. 12 Q. But my question was, and I don't mean to 13 knock you off track here, but Mr. Hamman -- 14 A. Was I in a hurry? Yes. 15 Q. Pardon? 16 A. Was I in a hurry? Yes. The September 3rd 17 date was fast approaching. 18 Q. Well, is it your testimony -- or do you agree 19 with Mr. Hamman that you all were consciously 20 attempting to comply with the September 3 payment 21 date? 22 A. I agree with that. 23 Q. So it was your belief that Mr. Galloway would 24 be able to do -- collect all of this information and 25 interview people in England, Ireland, Italy, the</p>	<p style="text-align: right;">Page 929</p> <p>1 complex matter. It couldn't be done between 2 September 27th and September 3rd, and so we posted the 3 money and told them that we would -- requested their 4 cooperation, asked them for documents and told them we 5 were going to need more time. 6 Q. Well, really the question was when was it 7 that you determined that you were going to need more 8 time? 9 A. Sometime in that period. I would say a few 10 days before September 3rd, I don't know exactly when. 11 Q. So what was it that you felt was -- you came 12 to the conclusion on September whatever, August 31 or 13 whatever, more or less, that could not be completed by 14 September 3? 15 A. Well, this was a slow start, because this guy 16 never did anything. 17 Q. Okay. So he hadn't -- 18 A. So we were -- we were trying to check on the 19 credibility of Ballester and Walsh. We were trying to 20 check on the credibility of Emma O'Reilly. We were 21 trying to check on the credibility of Greg LeMond. We 22 were trying to check on the credibility of William 23 Stapleton. We were trying to check on the credibility 24 of Lance Armstrong. 25 Q. Okay. So whatever it was, it was a</p>
<p style="text-align: right;">Page 928</p> <p>1 United States, France, Italy again, U.S. and you would 2 be able to get all of that put to bed by September 3, 3 in one month? 4 A. Certainly we weren't going to get all of that 5 done. I was trying to give Mr. Galloway an outline of 6 the proposed engagement and request a response back 7 from him. This is like a request for proposal and 8 he's going to give me back an outline of the cost. 9 And these are -- this is what I think is relevant to 10 determine whether or not Mr. Armstrong doped. 11 Q. When you say that you expect the 12 investigation to be time consuming, what did you have 13 in mind? 14 A. That doing all the things that you just said 15 were alluded to not being very easy to get done in a 16 month, it would take a lot of time. There might have 17 to be delegations to other people. There might have 18 to be more than one person working on it. He would 19 have -- McLaren Young would have offices all over the 20 world. 21 Q. When was it that you determined that you 22 would not be able to meet the September 3 payment 23 date? 24 A. I think what we determined was that we needed 25 more time. Just like you said, this was an enormously</p>	<p style="text-align: right;">Page 930</p> <p>1 conglomeration of things that wouldn't let you 2 complete your work by September 3rd, correct? 3 A. Yes. 4 Q. The first request that you ever made of 5 Tailwind for any documents was September 2nd, correct? 6 A. Yes. 7 Q. And despite the absence of a request for 8 documents, you were provided on August the 16th with a 9 statement from the head of the anti-doping unit of the 10 UCI that Mr. Armstrong had been not only urine tested 11 but blood tested on numerous occasions during the 2004 12 Tour de France and was -- every test was negative? 13 A. Actually, I think the document that we 14 received was an attempt to comply with the request 15 that we made through ESIX. 16 Q. Through ESIX? 17 A. Uh-huh. 18 Q. Okay. Okay, well, fair enough. And you made 19 a request to Tailwind for that confirmation and you 20 were provided it on August the 16th, correct? 21 A. First of all, SCA made the request and what 22 we were provided was not test results. 23 Q. Okay. 24 A. And further, Mr. Varin -- it appears that the 25 August 16th e-mail, which I would suggest to everyone</p>

Pages 927 to 930

Page 931

1 would be to our benefit if we would all look at while
 2 we are discussing it, the August 16th e-mail appears
 3 to be something cut and pasted into a Kelly Price
 4 e-mail, and I would suggest to you that we have the
 5 right to see the rest of the e-mail that was cut and
 6 pasted into Ms. Price's e-mail and I would suggest to you
 7 that it might have just been forwarded to us, but
 8 it was cut and pasted. So it did not come to us from
 9 the UCI, although I have no reason to doubt that it
 10 was provided by Mr. Varin to Ms. Price.

11 Q. Well, did you take any issue with Ms. Price
 12 about the cut-and-paste nature of the e-mail when you
 13 received it on August 16th?

14 A. We are back to the you and SCA.

15 Q. Okay, SCA, I'm sorry. Did SCA take any --
 16 take issue with that?

17 A. I don't know if Mr. Hamman had any further
 18 conversations with Ms. Price or not. I certainly
 19 said, hey, this isn't test results.

20 Q. Well, to the extent that the results of a
 21 test would either be positive or negative, you all
 22 were informed that all of the tests -- all of the
 23 tests resulted in a negative finding; would you agree
 24 with that?

25 A. I would agree that that statement says that

Page 933

1 the form in which the information was provided to you
 2 by Ms. Price to whom you made your request.
 3 A. If I took issue is a little strong. It's
 4 certainly clear to me that there's a classification of
 5 results between positive and negative called
 6 unclassifiable that demonstrate that illicit
 7 substances are in urine, are in blood and that I would
 8 be interested in blood values. That certainly
 9 occurred to me.

10 Q. That occurred to you on August the 16th?

11 A. Yes. Well, it might have occurred to me on
 12 August the 17th or the 18th, but it occurred to me.

13 Q. Well, by this time, of course, you and
 14 Mr. Bandy in June were exchanging articles about --
 15 about blood, blood doping, et cetera when you first
 16 started to avoid your obligations; isn't that true?

17 A. We never started to avoid our obligations.

18 Q. Okay.

19 A. So, no, it's not true.

20 Q. Okay. But --

21 A. And furthermore I don't know that we were
 22 exchanging articles on blood doping in June, but the
 23 months are blurred.

24 Q. Before the Tour de France even started; is
 25 that true?

Page 934

1 Mr. Armstrong has, I believe -- I really -- I think it
 2 would benefit us all if we would look at the document
 3 while we are talking and I don't know the exhibit
 4 number. So I believe -- you know, it's of interest to
 5 me that we get it right and that we talk about it in
 6 terms of what was said.

7 Q. All right. That's fair enough.

8 Look at plaintiff -- I mean Claimants'
 9 Exhibit 80. Is that the e-mail to which you refer?

10 A. No, I don't believe so.

11 Q. Well, that's from Bob Hamman to you on
 12 August 16th?

13 A. No. Oh, that's from Bob Hamman to me on
 14 August 16th. I'm looking -- I'm looking for the
 15 e-mail that you quote in the CSC advertisement. I
 16 don't see the statement that -- maybe it is here and I
 17 just read it. I wasn't expecting it in block form.
 18 Here is a copy of the response from the UCI office.

19 Q. You don't need to read it out loud, read it
 20 to yourself and satisfy yourself that it's the same
 21 quote that's in the Street & Smith article.

22 A. Okay. I do believe that that is the quote
 23 that was put in the Street & Smith article.

24 Q. And I guess really what I would like to
 25 inquire about is if, first of all, you took issue with

1 A. It would have been after the book came out
 2 and I'm a little confused as to when the book came
 3 out.

4 Q. Okay.

5 A. I wouldn't mind if we got that date straight.

6 Q. Well, let's finish this just for a moment if
 7 you don't mind. Are you taking the position now that
 8 the information from the UCI anti-doping manager
 9 provided to you by Kelly Price on August the 16th is
 10 not authentic information; I mean that it wasn't
 11 really from the UCI?

12 A. Am I taking the position now that it wasn't
 13 really from the UCI, that information? No.

14 Q. Okay. And did you take that position in
 15 August of 2004, that this was fishy, that this
 16 wasn't --

17 A. No, we certainly wondered about it, but, no,
 18 we didn't -- you know, we didn't think that somebody
 19 had fraudulently typed Christian Varin, Manager
 20 Antidopage/Antidoping Manager Union Cycliste
 21 Internationale at the bottom of some e-mail and sent
 22 it to us.

23 Q. Did you inform Tailwind that you were
 24 undertaking this investigation through McLaren?

25 A. No.

Pages 931 to 934

Page 935	Page 937
<p>1 Q. When you said you had a lawyer on the 26th of 2 July of 2004, did you hire a lawyer? 3 A. We had -- it was a lawyer that we had already 4 used. He would have already -- this would have been a 5 new matter. 6 Q. Okay. So a lawyer that you had already used 7 you engaged to assist you on this Tailwind matter on 8 July the 26th, fair enough? 9 A. I engaged him to assist me in drafting this 10 letter, fair enough. 11 Q. Well, the letter was in the Tailwind matter? 12 A. Yeah, at the time we think we are a business 13 contract, we don't think we're an insurance company. 14 We think that there may or may not be litigation, we 15 might pay, we might not. We're advised by our outside 16 counsel that we want it right. It's anticipation to 17 litigate on top of it. 18 Q. Okay. 19 A. I mean, that's fair enough. 20 Q. Now, when did -- well, strike that. 21 There was a call from Kelly Price on 22 the 26th to SCA where SCA acknowledged receipt of the 23 claim that's at issue in this case. 24 A. If you say so. Perhaps I was present at some 25 deposition where that was said and acknowledged, but</p>	<p>1 response; isn't that true? 2 A. Chris Compton wasn't, and I don't believe SCA 3 was, and numerous is a word subject to interpretation, 4 so I'm not sure I can answer the question. 5 Q. All right. You all had done a lot of 6 business with ESIX? 7 A. I found that out as a result of this 8 litigation, yes. 9 Q. I keep saying you. SCA had done a lot of 10 business with ESIX over the years, had they not? 11 A. Yes, I certainly didn't think you meant me 12 personally. 13 Q. Okay. And it's true that Kelly Price had 14 some 25 years in the business? 15 A. I think that was stated in her deposition 16 because you're asking me that, but I don't recall, 17 but, yes, she's experienced. 18 Q. And Mr. Mitchelitch is an experienced broker, 19 is he not? 20 A. Experienced enough to -- yes, yes, yes. 21 Q. Well, he's experienced enough -- both of them 22 were experienced enough in dealing with SCA to -- 23 well, strike that. 24 They were both experienced enough in the 25 contingency insurance area to at least have somewhat</p>
Page 936	Page 938
<p>1 the call didn't come to me. 2 Q. Okay. So when was the next time that SCA 3 communicated with the broker, Kelly Price, or with the 4 insured, Tailwind, with respect to the claim that had 5 been made on July 26th? 6 A. Okay. There are two questions there and as 7 to the first one, I don't know. 8 Q. The first one by Kelly Price? 9 A. Yes. 10 Q. The second one -- 11 A. The second one, which I get a little confused 12 and forget the first part of the question by the time 13 I'm realizing there are two questions, I think it was 14 when did we contact Tailwind. 15 Q. Sure. 16 A. And I believe the answer to that is 17 September 2nd. 18 Q. Do you know of any response that SCA made 19 regarding the claim to any inquiries from ESIX or from 20 Kelly Price during the month of August 2004? 21 A. Other than might be attached to depositions 22 of Mitchelitch and Price, no. Unfortunately I think 23 they're all duplicated, but I'm not sure. 24 Q. Well, SCA was contacted numerous times 25 between August 1 and September 1, 2004 without any</p>	<p>1 respectable opinions about the standards of conduct? 2 A. Yes, they thought SCA was not an insurance 3 company and, B, had a reputation in the industry for 4 paying promptly. 5 MR. HERMAN: Would you put up slide 15, 6 Russell. This is Claimants' Exhibit 39, if you want 7 to turn to it. 8 MR. TILLOTSON: Exhibit what, I'm sorry? 9 MR. HERMAN: It's Claimants' Exhibit 39. 10 Q. (BY MR. HERMAN) Kelly Price as of -- I wish 11 I could say I could read that date, but it looks like 12 September 8th or something, characterizes SCA's 13 position as ludicrous. Did you have any conversation 14 or did anyone at SCA have any conversation with 15 Ms. Price about -- about that opinion? 16 A. I'm sure it's here in Exhibit 39, but I don't 17 see the language that's there. I would like to see -- 18 I think I'm looking at Claimants' Exhibit 39 and also 19 labeled -- see, this says Exhibit 17 and that says 20 Exhibit H, so I'm not sure I'm looking at the right 21 thing. I had no conversation with Kelly Price ever. 22 Q. Okay. Well, I mean, I could have missed -- 23 A. You might have one -- I've been impressed by 24 your memorization of the exhibits. 25 Q. Oh, I'm sorry. I did give you the wrong</p>

Pages 935 to 938

<p style="text-align: right;">Page 939</p> <p>1 number there. 2 A. Okay. 3 Q. But as long as you're on Exhibit 39, let's 4 talk about that one. 5 A. Well, I would like to go back to your 6 previous question and review the exhibit you asked me 7 there. 8 Q. Okay. All right, that's fair enough. As 9 soon as I can lay my mitts on it. 10 ARBITRATOR FAULKNER: What exhibit will 11 we be dealing with? 12 MR. HERMAN: That's exactly what I'm 13 trying to -- 14 THE WITNESS: It says H, but we don't 15 know what -- 16 Q. (BY MR. HERMAN) I'm sorry, that was my 17 mistake. Well, I'll tell you what -- 18 MR. TILLOTSON: 32. 19 ARBITRATOR FAULKNER: Is that your 32? 20 MR. TILLOTSON: Their 32, Claimant's 32. 21 MR. HERMAN: Claimant's 32. Okay, I 22 apologize, Mr. Chairman. 23 ARBITRATOR FAULKNER: No problem. 24 Q. (BY MR. HERMAN) Okay, Exhibit 32. 25 A. Yes.</p>	<p style="text-align: right;">Page 941</p> <p>1 bottom, Claimants' Exhibit 31. 2 Q. (BY MR. HERMAN) Would you agree that -- and 3 I think it's this e-mail that you're talking about 4 where SCA had a solid track record, and would you 5 agree that it was unprecedented to cut the broker out 6 of the loop on a claim like this? 7 A. I wouldn't have an opinion. 8 Q. One way or the other? 9 A. I don't -- I don't process claim payment. I 10 don't know how we pay them. 11 Q. Okay. Fair enough. 12 Now, do you recall that -- I think 13 Mr. Hamman and I talked about it this morning. In my 14 letter of September 8, 2004 I informed you that the -- 15 that arbitration would be instituted on the 13th if 16 you all didn't pay. Do you recall that? 17 A. I believe that that conversation took place 18 this morning between you and Mr. Hamman, yes. I would 19 like to look at the letter if we are going to talk 20 about it, but, yes, I remember that conversation. 21 Q. All right. Well, I don't necessarily want to 22 go through all of that again, but Tailwind did 23 initiate a proceeding in district court in Dallas 24 asking that an arbitrator or arbitrators be appointed 25 by Judge Canales. Do you recall that?</p>
<p style="text-align: right;">Page 940</p> <p>1 Q. That's dated -- an e-mail dated September 9, 2 2004, correct? 3 A. Correct. 4 Q. And that's from Kelly Price, I think, as we 5 talked about. And, of course, Kelly Price explains 6 what collecting from Lloyds is like in the first 7 paragraph, that is collecting from the various 8 syndicates and so forth, then characterizes SCA's 9 conduct as ludicrous. 10 A. Correct. 11 Q. And she was in the insurance business for 25 12 years, right? 13 A. I answered that once, yes. 14 Q. And she had handled many contracts with SCA? 15 A. And I believe she -- either she or 16 Mr. Mitchelitch said we had an excellent record for 17 paying promptly in one of these e-mails. 18 Q. Okay. Now, let's go to slide 16, which is an 19 e-mail from September 10 from Mr. Mitchelitch, and I'm 20 hoping that I can -- is this 29? Yes. I keep getting 21 mixed up between the first hearing and the second 22 hearing. 23 Okay. I'm going to come back to that, 24 but anyway -- 25 ARBITRATOR FAULKNER: It's 31 at the</p>	<p style="text-align: right;">Page 942</p> <p>1 A. Yes. 2 Q. And you were involved -- first of all, I 3 think Haynes and Boone represented you all? 4 A. Correct. 5 Q. And then Mr. Tillotson's firm. But you were 6 involved, you were at all the hearings if there were 7 any and so forth, were you not? 8 A. Correct. I believe I was at every hearing. 9 Q. Do you take the position that SCA never 10 disputed or never sought recovery of the \$5 million 11 that was on deposit? 12 A. Here is my recollection. You're moving to 13 force the judge to rule to put the money into the 14 district court registry. It becomes apparent to me 15 during the hearing that the judge is a friend -- well, 16 is -- is leaning towards ruling in your direction, 17 whereupon I foresee that you're going to put out yet 18 another media press release pounding us for having 19 been ordered by the Court to place the money into the 20 registry of the court. So I agree on behalf of SCA, 21 after a telephone call to Mr. Hamman, to post the 22 money into the registry of the court, and the judge 23 never had to make the order. 24 However, something I saw this morning got 25 me a little confused, because I saw documents that</p>

Pages 939 to 942

<p>1 said agreed order, but I don't believe that -- I 2 believe it was by agreement of the parties that the 3 money was paid, was posted. 4 Q. And for how long did you agree to post it? 5 A. Well, funny thing about that money going into 6 the court registry. Once you agree to put it in the 7 court registry, you don't have a lot of say about when 8 it comes out. The Court does that. 9 Q. Do you recall agreeing only to leave it there 10 until we can have a temporary injunction hearing? 11 A. I think that you're saying agreeing to that 12 would mean that the judge said, okay, I only want to 13 keep this until the temporary injunction hearing, do 14 you agree to that? I think that I'm representing a 15 client that \$5 million is about to disappear into the 16 registry of the court, it's going to be hard to get 17 back out, and that I'm fighting to carve out whatever 18 chance we could have to have some flexibility with 19 money. I mean, any two normal business people in the 20 world would have gotten together and put the \$5 21 million somewhere that it could make more than 1.4 22 percent interest, but Tailwind and SCA weren't ready 23 to do that so the money sits earning 1.4 percent 24 interest. So, yes, I was concerned that \$5 million 25 would remain on deposit in the registry of the court</p>	<p>Page 943</p> <p>1 copies of stuff in trial that I've got one copy for 2 you all and then one copy for Mr. Tillotson. We will 3 provide -- 4 ARBITRATOR FAULKNER: Yeah, just provide 5 us supplemental copies later on, please. 6 Have you shown it to your opposing 7 counsel? Thanks. 8 MR. HERMAN: I may have to look over your 9 shoulder, because I only have one copy. Why don't you 10 take a look at that. 11 MR. TILLOTSON: You can borrow mine. I'm 12 familiar with the documents. 13 (Discussion held off the record.) 14 Q. (BY MR. HERMAN) Did you have an opportunity 15 to review Exhibit 111? 16 A. Cursorily, yes. 17 Q. Pardon me? 18 A. Briefly, yes. 19 ARBITRATOR FAULKNER: How is it -- 20 MR. HERMAN: It's styled Defendant's 21 Objections to Plaintiff's First Request for Documents. 22 Q. (BY MR. HERMAN) And you filed with the Court 23 pleadings that say that Plaintiffs Tailwind are not 24 entitled to the extraordinary relief they seek of a 25 temporary injunction to enjoin SCA from its \$5 million</p>
<p>1 earning 1.4 percent interest for an interminable 2 amount of time, as a business person 3 Q. Well, you -- 4 A. There was no evidence we were going to flee 5 the state. There weren't employees talking of our, 6 you know, things, we were still in business, the money 7 is out of our operation. 8 Q. But you objected to Tailwind's request that 9 SCA leave it at JPMorgan, didn't you? 10 A. Me? Say that again, because I don't recall 11 that as you said it. 12 Q. SCA objected to Tailwind's request that the 13 money stay at JPMorgan? 14 A. I have no recollection of that. 15 Q. All right. 16 MR. HERMAN: May I approach, Your Honor? 17 ARBITRATOR CHERNICK: Yes, you may. You 18 may approach Mr. Faulkner with the request to approach 19 the witness. 20 ARBITRATOR FAULKNER: Do we have copies 21 of that already? 22 MR. HERMAN: No, we don't, Your Honor. 23 And that's -- 24 ARBITRATOR FAULKNER: 112 and 113. 25 MR. HERMAN: I'm so used to making three</p>	<p>Page 944</p> <p>1 JPMorgan custodial account, correct? 2 A. Yes. 3 Q. All right. And then when -- there were a 4 flurry of events and so forth, but let me hand you 5 Exhibit 113, which is entitled Plaintiffs' Motion for 6 Continuance which has a Rule 11 agreement attached, 7 Exhibit A. Do you recall that? 8 A. Vaguely, yes. 9 Q. All right. And the agreement was D, should 10 the temporary injunction be granted, such funds shall 11 remain in the registry of the court until the final 12 judgment of the arbitration, right? I read that 13 correctly? 14 A. Yeah. I want to look at the two sentences 15 together, please. 16 Q. Okay. 17 A. Okay. The first sentence says we are trying 18 to leave the money in our JPMorgan custodial account 19 and the second sentence says should the temporary 20 injunction be granted, such funds shall remain in the 21 registry of the court until the final judgment of the 22 arbitration. 23 Q. Turn the page. What does E say? 24 A. E says should such temporary injunction be 25 denied, such funds will be released to SCA</p>

Pages 943 to 946

<p style="text-align: right;">Page 947</p> <p>1 Productions, Incorporated. However, this is the sort 2 of thing that drives Mr. Hamman crazy, because 3 Mr. Hamman's intent at all times had been -- his 4 intent was to leave the money posted for no less than 5 90 days.</p> <p>6 Q. Well, irrespective of what Mr. Hamman's 7 intent was, the point is that Tailwind had to file an 8 injunction to prevent SCA from having access to the 9 money, and you vigorously opposed that injunction 10 knowing that if it were denied, the money would be 11 released to SCA; isn't that true?</p> <p>12 A. You have mischaracterized your question. The 13 first part of your question is not what happened. We 14 did not -- we were going to leave the money in the 15 JPMorgan custodial account.</p> <p>16 Q. Well, why would you have taken the position 17 that Tailwind was unjustified in attempting to prevent 18 you all from accessing the money in the JPMorgan 19 account then?</p> <p>20 A. That's not what we were doing. We were 21 trying to prevent you from getting financial records 22 that we thought you had no right to and prevent the 23 money from going from the JPMorgan account into the 24 registry of the court. That's what we were trying to 25 do.</p>	<p style="text-align: right;">Page 949</p> <p>1 Q. Okay. Take your time. 2 A. Okay. I see these -- 3 MR. TILLOTSON: Before you answer, let 4 me -- 5 (Off-the-record discussion between 6 Mr. Tillotson and Mr. Herman)</p> <p>7 Q. (BY MR. HERMAN) You don't dispute that those 8 e-mails were exchanged as between ESIX and SCA, do 9 you?</p> <p>10 A. No.</p> <p>11 Q. Did you have something you wanted to point 12 out?</p> <p>13 A. No.</p> <p>14 Q. Okay.</p> <p>15 MR. HERMAN: Your Honor, I offer 16 Exhibits 112, 113 and 114.</p> <p>17 MR. TILLOTSON: No objection.</p> <p>18 ARBITRATOR FAULKNER: No objection?</p> <p>19 ARBITRATOR CHERNICK: Can I just verify 20 that 112 is a document entitled Plaintiffs' Response 21 to Defendants' Objections to First Request for 22 Production of Documents and Motion to Compel 23 Production?</p> <p>24 MR. HERMAN: That's true.</p> <p>25 MR. TILLOTSON: That's 112.</p>
<p style="text-align: right;">Page 948</p> <p>1 Q. Well, actually what you said was that the 2 financial records would be produced in the 3 arbitration, didn't you?</p> <p>4 A. I believe that to the extent the financial 5 records are relevant to the issue of whether 6 Mr. Armstrong doped or not that they would be produced 7 in the arbitration. We are a privately held company. 8 Privately held companies guard their records.</p> <p>9 Q. You don't -- you wouldn't dispute the fact 10 that -- or the proposition that SCA never responded to 11 inquiries from either ESIX or Tailwind during the 12 month of August about the status of this claim or its 13 handling?</p> <p>14 A. I believe that that's untrue. I believe that 15 Bob Hamman told them that we were looking into it.</p> <p>16 MR. HERMAN: Would you mark these as 114. 17 I do have three copies of that. I haven't asked for 18 permission to approach -- I don't need permission to 19 approach Mr. Tillotson, but may I have permission to 20 approach the witness?</p> <p>21 ARBITRATOR FAULKNER: Granted.</p> <p>22 Q. (BY MR. HERMAN) I'm just showing you what 23 has been marked as Exhibit 114, and have you ever 24 seen those e-mails before?</p> <p>25 A. Well, I have to read them first.</p>	<p style="text-align: right;">Page 950</p> <p>1 ARBITRATOR CHERNICK: And 113 is 2 Plaintiffs' Motion for Continuance with attachments.</p> <p>3 MR. HERMAN: With the attached agreement. 4 It was just attached -- the agreement was attached to 5 the pleading and that's why it's --</p> <p>6 ARBITRATOR FAULKNER: They will be 7 admitted and we will ask you to provide us with enough 8 copies for all of the members of the tribunal.</p> <p>9 MR. HERMAN: Certainly.</p> <p>10 Q. (BY MR. HERMAN) Did -- do you have any idea 11 why SCA didn't respond?</p> <p>12 A. I've already answered that I believed he had 13 told them by telephone he was looking into it.</p> <p>14 Q. Okay. Did you go to Detroit to meet with 15 Mr. Walsh in September?</p> <p>16 A. No.</p> <p>17 Q. Was that Mr. Bandy and Mr. Hamman?</p> <p>18 A. Yes.</p> <p>19 Q. Would you look at Claimants' Exhibit 71, the 20 bottom paragraph.</p> <p>21 A. Yes.</p> <p>22 Q. Do you know Thibeault de Montbrial?</p> <p>23 A. I do.</p> <p>24 Q. As far as you know, was this the first 25 knowledge of his existence you had, that is, that he</p>

Pages 947 to 950

<p style="text-align: right;">Page 951</p> <p>1 was the attorney for the French publisher of David 2 Walsh? 3 A. That's certainly a reasonable statement. 4 Q. Okay. Next page, top paragraph. 5 ARBITRATOR LYON: My copy doesn't have 6 who wrote it. 7 THE WITNESS: I would offer that John 8 Bandy wrote this. 9 MR. HERMAN: I think the testimony is 10 that John Bandy wrote it, but it doesn't have an 11 author's name on it. 12 ARBITRATOR CHERNICK: You mean translated 13 from French to English? 14 MR. HERMAN: No, this is a recount of his 15 visit with David Walsh. 16 ARBITRATOR CHERNICK: Oh, okay, you're 17 looking at something different. 18 MR. TILLOTSON: It's an internal memo 19 prepared by John Bandy from SCA Promotions. 20 ARBITRATOR CHERNICK: Understood now. 21 Q. (BY MR. HERMAN) Mr. Montbrial supposedly has 22 excellent contacts with the French police who seem to 23 be hot to get LA. Is that Lance Armstrong? 24 A. I believe so. 25 Q. Now, down in the next paragraph -- I mean,</p>	<p style="text-align: right;">Page 953</p> <p>1 that Frankie and Betsy Andreu proved -- helped prove 2 the case that Lance Armstrong doped. 3 Q. And that's what you meant by the home run as 4 of September -- that's what SCA means by the home run 5 as of September 20, that is, we ain't going to have to 6 pay, Frankie and Betsy are the home run? 7 A. You'll have to ask Mr. Bandy for a further 8 definition of that, but I believe this means that 9 Frankie and Betsy Andreu verified the allegations that 10 had been stated attributed to them in the Walsh book. 11 Q. And hitting the home run would have been a 12 major success for SCA, wouldn't it? 13 A. Yes. 14 Q. The next page, please. Under Emma, Walsh 15 says she is prepared to testify. Testify where? 16 A. Here at this hearing. 17 Q. So you were already planning on that as of 18 September 20? 19 A. We were wondering if she would testify if 20 there came the need for a hearing; pretty normal 21 ordinary business course inquiry. 22 Q. Under miscellaneous, Walsh also says Swart is 23 prepared to testify, correct? So you were rustling 24 witnesses as of September 20, 2004? 25 A. Mr. Herman --</p>
<p style="text-align: right;">Page 952</p> <p>1 not the next paragraph, two paragraphs down, see the 2 one that starts with Betsy and Frankie? 3 A. Uh-huh. 4 Q. Frankie and Betsy are the home run. Now, as 5 of -- that's a pejorative term that means essentially 6 knocking it out of the park, right? 7 A. Yes. 8 Q. And -- 9 A. Pejorative? 10 Q. Well -- 11 A. I don't agree that it's a pejorative term. 12 Q. Okay. Okay. My vocabulary is not as big as 13 I think it is, I guess, but anyway -- but in any 14 event -- 15 ARBITRATOR CHERNICK: Do you want a 16 ruling on that, Mr. Herman? 17 MR. HERMAN: Please don't, at least not 18 on the record. 19 MR. TILLOTSON: You can just do the 20 CliffsNote version. 21 MR. HERMAN: Exactly. 22 Q. (BY MR. HERMAN) Anyway, Frankie and Betsy 23 are the home run, home run for SCA? 24 A. Mr. Bandy wrote this, but I'll take a wild 25 chance at an answer and say to you that he believed</p>	<p style="text-align: right;">Page 954</p> <p>1 MR. TILLOTSON: I object as 2 argumentative. 3 ARBITRATOR FAULKNER: Let him make the 4 objection, and a response. 5 MR. HERMAN: I'll rephrase the question. 6 ARBITRATOR FAULKNER: Thank you. 7 Proceed. 8 Q. (BY MR. HERMAN) So you all were soliciting 9 witnesses in an attempt to confirm the allegations in 10 Mr. Walsh's book as of September 20? 11 A. Or deny. 12 Q. Pardon me? 13 A. Or deny the allegations. 14 Q. Do you think it would have been a home run if 15 Frankie and Betsy Andreu -- is that what Mr. -- is 16 that how you took that, Frankie and Betsy Andreu -- 17 because Frankie Andreu did deny -- would you consider 18 that would be a home run? 19 A. I'm confused as to what Mr. Andreu denied, 20 Mr. Herman. 21 Q. Well, if -- just hypothetically, if you 22 contacted Frankie and Betsy Andreu and they did not 23 confirm the allegations in the book, would that be a 24 home run? 25 A. Like when I contacted Mr. Gorski I put in my</p>

<p style="text-align: right;">Page 955</p> <p>1 interview that he said Lance Armstrong didn't use 2 performance enhancing drugs, no, that is not a home 3 run. 4 Q. So it wouldn't be a home run -- 5 A. No. 6 Q. -- if they didn't confirm the allegation? 7 A. We seem to be stuck on the sentence about the 8 home run. I've admitted that a home run would be 9 something good for SCA, but you're returning to it so 10 I'm at a loss to what further you want from me. 11 Q. Well, all I'm saying is would talking to 12 Betsy and Frankie Andreu be a home run, or if they 13 confirmed allegations of David Walsh it would be a 14 home run, which one is it? 15 A. It would be -- if talking to Betsy and 16 Frankie, who have told us things other than writing 17 the book since then, I doubt they had told us at that 18 time. What that sentence says is nothing that Betsy 19 and Frankie Andreu said led us to believe that 20 Mr. Armstrong was anything other than a doping cheat. 21 Q. What about Mr. -- 22 MR. HERMAN: Well, on -- turn to -- I 23 think it's page 4 or page 3 of the -- of this exhibit, 24 Russell, please. The next page, I'm sorry. The 25 second paragraph. It's the right paragraph -- no,</p>	<p style="text-align: right;">Page 957</p> <p>1 Q. All right. Now, if you will turn to 2 Exhibit 73, just take these in sort of exhibit order, 3 although they may not be chronologically in order. 4 This is a letter to Mr. Tillotson where 5 you enclose certain contracts and you say; they could 6 be useful in the deposition of Stapleton and I point 7 out that Stapleton may not be aware we possess the '99 8 contract because we obtained it gratuitously from the 9 files of Global Specialty Risk. What do you mean 10 gratuitously? 11 A. Well, I'm a little amazed that a letter that 12 I wrote to my outside litigator has been produced, but 13 I will -- that constitutes waiver that the letter 14 can't be withdrawn? This is a letter from me to my 15 counsel? 16 MR. TILLOTSON: Well, it's in evidence. 17 We don't agree to any waiver, but it is enclosing a 18 document. You can answer the question and we will 19 police -- hold on. We will police the question and 20 assert privilege if necessary. 21 ARBITRATOR FAULKNER: Mr. Compton, your 22 lawyer will object for you. And I know it's an 23 unusual position for a lawyer to be on the witness 24 stand, but wait until he objects, if he does. We will 25 hear from the other side, then we'll rule on it. So</p>
<p style="text-align: right;">Page 956</p> <p>1 it's the next page after that. I'm sorry, the second 2 paragraph, last sentence. 3 Q. (BY MR. HERMAN) Julien de Vriese? 4 A. Yes. 5 Q. He's probably worth contacting though he 6 should be last due to the strong possibility that he 7 will notify Lance Armstrong. 8 So this investigation as you've referred 9 to it was to be undertaken without the knowledge of 10 the insured or Mr. Armstrong? 11 A. Well, I think it's worth saying on one -- at 12 least one more time that at the time we were doing 13 this we had no idea that we were an insurance company. 14 And second of all, no matter what it says here, I've 15 been trying to get ahold of Julien de Vriese since the 16 beginning of this investigation and as late as this 17 morning. I want to hear what he has to say. At some 18 point you said he was coming. 19 Q. Well, when we submitted our deposition on 20 written questions, did you submit any questions to 21 Mr. de Vriese? 22 A. I don't believe that we submitted any 23 questions to Mr. de Vriese. We were going to wait and 24 see what came back from your submission. I have 25 questions for Mr. De Vriese.</p>	<p style="text-align: right;">Page 958</p> <p>1 that will make it a little bit easier, and I 2 understand your concern. 3 THE WITNESS: Well, my problem is I don't 4 want to -- 5 ARBITRATOR LYON: Let's just take about a 6 five- or ten-minute break here, okay. 7 ARBITRATOR FAULKNER: Okay. We will take 8 a five-minute break. Why don't you gentlemen chat 9 and -- 10 MR. HERMAN: Your Honor, before, let me 11 just say something on the record here. 12 ARBITRATOR FAULKNER: Yes, sir. 13 MR. HERMAN: That we will not -- Tailwind 14 will not take the position that discussion of this 15 document would waive any other privilege to which -- I 16 mean, we won't rely on this as a waiver of privilege 17 of anything else, okay. So just to be fair about it, 18 if it was an inadvertent disclosure, I'm happy -- if 19 Mr. Tillotson wants it back, I'll be happy to give it 20 back. I don't want to -- it was produced and I -- 21 MR. TILLOTSON: We would request it back. 22 It contains the Global Specialty Risk contract. That 23 was made an exhibit in the insurance hearing, if I 24 recall, and offered into evidence at that time. 25 MR. HERMAN: Well, I'm happy to give it</p>

Pages 955 to 958

<p>1 back.</p> <p>2 ARBITRATOR LYON: Was the letter offered</p> <p>3 into evidence at that time?</p> <p>4 MR. TILLOTSON: No, just the underlying</p> <p>5 disclosure. And I believe in the course of business</p> <p>6 of -- we didn't exchange exhibits until the Saturday</p> <p>7 before the hearing.</p> <p>8 ARBITRATOR FAULKNER: Why don't you two</p> <p>9 chat while we take a break. You guys just take care</p> <p>10 of sorting that out so we don't have any issues of</p> <p>11 privilege.</p> <p>12 We are on a five-minute break.</p> <p>13 (Recess 4:02 to 4:15 p.m.)</p> <p>14 MR. TILLOTSON: First, we have -- we have</p> <p>15 requested back copies of exhibit -- Claimants'</p> <p>16 Exhibit 73 on a claim of inadvertent production.</p> <p>17 Mr. Herman has graciously agreed to give it back and</p> <p>18 move on from the questioning of this witness and we</p> <p>19 appreciate that cooperation.</p> <p>20 Second, we have a witness, Mr. Swart, who</p> <p>21 we brought -- we haven't brought, he's come from</p> <p>22 Australia, but he would like to hightail it back. So</p> <p>23 at some point during tomorrow's proceedings the</p> <p>24 parties are going to go -- some parties are going to</p> <p>25 go depose him so we can preserve his testimony and</p>	<p>Page 959</p> <p>1 MR. TILLOTSON: We will try not to lose</p> <p>2 any time because of it.</p> <p>3 MR. HERMAN: We'll have a lawyer go</p> <p>4 depose him so we won't hold up the hearing at all.</p> <p>5 ARBITRATOR FAULKNER: Okay. That's all</p> <p>6 I'm concerned with.</p> <p>7 Before we go too far afield, gentlemen,</p> <p>8 let's get to two things that we need to have addressed</p> <p>9 while -- we're going to ask you all again, please</p> <p>10 reduce to writing and provide to the tribunal a copy</p> <p>11 of whatever, if any, agreement you fellows reach</p> <p>12 regarding waiving confidentiality.</p> <p>13 Secondly, please reduce to writing and</p> <p>14 provide to the tribunal a copy of whatever agreement</p> <p>15 or stipulation you all reach regarding Mr. Anderson's</p> <p>16 testimony as though under an enforceable subpoena and</p> <p>17 just please provide that to us so that before we rule</p> <p>18 on your motions in limine that we have those things in</p> <p>19 our hands, okay?</p> <p>20 MR. HERMAN: Certainly.</p> <p>21 ARBITRATOR FAULKNER: All right. Thank</p> <p>22 you very much.</p> <p>23 MR. HERMAN: I think I owe you some</p> <p>24 deposition excerpts.</p> <p>25 ARBITRATOR FAULKNER: Yes, you do. And</p>
<p>Page 960</p> <p>1 then play it later for the panel. And Mr. Herman has</p> <p>2 a particular order. He doesn't want to interpose a</p> <p>3 particular witness and I'm willing to respect that,</p> <p>4 but we do need to preserve this witness's testimony.</p> <p>5 MR. HERMAN: We have agreed to do just a</p> <p>6 video and then play it during his case.</p> <p>7 MR. TILLOTSON: And then if the panel has</p> <p>8 questions for Mr. Swart, which will be the only thing</p> <p>9 that we would be giving up by not having him here,</p> <p>10 then we can arrange to have those questions in some</p> <p>11 way answered either by phone if that comes up or some</p> <p>12 other accommodation.</p> <p>13 MR. HERMAN: That's fine.</p> <p>14 MR. TILLOTSON: So to the other side, be</p> <p>15 prepared tomorrow whatever time to depose Mr. Swart.</p> <p>16 MR. HERMAN: We probably would like to do</p> <p>17 it right after lunch if that's okay with you.</p> <p>18 MR. TILLOTSON: I'll check with his</p> <p>19 schedule and see what time I think that is.</p> <p>20 ARBITRATOR FAULKNER: Are you all going</p> <p>21 to take a break so that we won't have to be with you?</p> <p>22 MR. HERMAN: We are going to continue the</p> <p>23 hearing. We will be --</p> <p>24 ARBITRATOR FAULKNER: Okay. That's what</p> <p>25 I wanted to make sure of.</p>	<p>Page 960</p> <p>1 also make sure that all members of the panel have the</p> <p>2 black binder with all of y'all's exhibits so that</p> <p>3 everyone has a set when we sit down and do our</p> <p>4 deliberations.</p> <p>5 ARBITRATOR CHERNICK: He's the only one</p> <p>6 that does not.</p> <p>7 ARBITRATOR FAULKNER: So apparently you</p> <p>8 only need one.</p> <p>9 MR. HERMAN: All right.</p> <p>10 ARBITRATOR FAULKNER: Okay. Please</p> <p>11 proceed then.</p> <p>12 Q. (BY MR. HERMAN) Mr. Compton, would you turn</p> <p>13 to Exhibit 101, Claimants' Exhibit 101, please. Did</p> <p>14 you prepare Exhibit 101?</p> <p>15 A. I believe I did.</p> <p>16 Q. Why is this not on SCA letterhead?</p> <p>17 A. I think everything that -- that we produced</p> <p>18 to you -- I could be wrong -- is a copy of an</p> <p>19 electronic copy coming out of our database and the</p> <p>20 letterhead was on the original. This is an unsigned</p> <p>21 copy, and so the answer is it's not on letterhead</p> <p>22 because it's the electronic copy.</p> <p>23 Q. When you wrote this letter on August</p> <p>24 the 17th, 2004, you were aware that it would take 20</p> <p>25 business days for a response, right?</p>

<p style="text-align: right;">Page 963</p> <p>1 A. I was aware. You know, it's sort of funny, 2 before you go to a web site to get a copy of them, the 3 FOIA request, and I think I got the information that 4 they had the right to take up to 20 days to respond. 5 Q. That would have been -- I'm sorry? 6 A. I believe the government has the right to 7 take up to 20 days to respond. 8 Q. That 20 business days would take you up 9 essentially to the middle of September, correct? 10 A. September 7th or 8th. 11 Q. 20 business days would be four weeks. 12 A. Okay, I apologize. I forgot business days. 13 Q. So it would be more or less September 15th? 14 A. That sentence was there because I knew they 15 had the right to do it and I was trying to make sure 16 they did it within that time. I certainly wanted it 17 faster than that. 18 Q. Well, I mean, I know the federal government 19 is not notorious for beating their allowed time frames 20 obviously. 21 ARBITRATOR CHERNICK: Only in cashing our 22 IRS checks. 23 Q. (BY MR. HERMAN) In any event, 20 business 24 days would be more or less the middle of September; we 25 can agree about that, I guess?</p>	<p style="text-align: right;">Page 965</p> <p>1 A. Yes. 2 Q. Now, look at -- 3 A. I think so. You have to understand, 4 Mr. Hamman doesn't pass out titles and, you know, 5 project manager is a description I've used to describe 6 what I believe I did looking backwards. 7 Q. We earlier saw the memo prepared by Mr. Bandy 8 about the meeting with David Walsh on September 20, 9 2004. Do you recall that? 10 A. Yes. 11 Q. And do you recall his description of 12 Montbrial as representing the French publisher and who 13 was a guy who had an in with the French police who 14 were out to get Lance Armstrong; do you remember that? 15 A. I believe the phrase is well connected. 16 Q. Okay. And in connection with the proceeding 17 before Judge Canales seeking the appointment of 18 arbitrators, after you found out that Mr. Montbrial 19 was representing a party adverse to Mr. Armstrong in 20 the French litigation and was tied in with the French 21 police who were out to get Mr. Armstrong, you 22 appointed Mr. Montbrial as your arbitrator in this 23 very case, didn't you? 24 A. On advice of counsel or in consultation with 25 counsel and without a completely firm understanding of</p>
<p style="text-align: right;">Page 964</p> <p>1 A. Yes. 2 Q. You requested documents related to 3 Mr. Stapleton individually. And why was that? 4 A. Because I believed that William Stapleton was 5 Mr. Armstrong's agent and I believed that there might 6 be relevant information in such documents. 7 Q. All right. Did I understand your earlier 8 testimony to be that as of August the 17th that you 9 were still working towards getting this done by 10 September 3rd? 11 A. Yes. 12 Q. August 17th was the day after you received 13 the verification from UCI that -- indirectly or 14 through Ms. Price that your request as to testing done 15 during the 2004 tour, those results were all negative. 16 Were these connected in any way, that is -- 17 A. I have no idea if they were connected in any 18 way. I can't possibly remember what I was thinking 19 after that -- I got one thing before I did the other. 20 Q. You were in charge of the -- well, you were 21 program director of the investigation by that time, I 22 take it? 23 A. Project manager. 24 Q. Project manager, sorry. 25 By that time; is that right?</p>	<p style="text-align: right;">Page 966</p> <p>1 what a party arbitrator exactly is and exactly isn't, 2 it was clear to me that the court of arbitration in 3 sport uses experienced doping people. I was looking 4 for the most knowledgeable person in the world 5 regarding doping and the Tour de France. I had in 6 Mr. Montbrial a person who had represented people in 7 Festina. He remains to this moment the most qualified 8 individual in the world to sit on this panel. 9 ARBITRATOR CHERNICK: Present company 10 excluded, of course. 11 MR. TILLOTSON: So stipulated. If you 12 would listen to the question and answer it, it would 13 be most appreciative. 14 Q. (BY MR. HERMAN) Judge Canales didn't share 15 that view, did he? 16 MR. TILLOTSON: I will interpose an 17 objection. We appointed an arbitrator. He was 18 stricken by Judge Canales. I would object on the 19 basis of relevance as to how that can constitute bad 20 faith and denial of the claim since those events 21 occurred after the client has testified they made a 22 decision to deny the claim. That hearing was on 23 December 20th and I don't see how that can be evidence 24 of bad faith on our claim, the appointment of an 25 arbitrator. So I would object on the grounds of</p>

Pages 963 to 966

<p style="text-align: right;">Page 967</p> <p>1 relevance. We don't dispute the facts as to who was 2 appointed and what Judge Canales ruled with respect to 3 that arbitrator and I would object that going through 4 this is irrelevant.</p> <p>5 MR. HERMAN: Let me -- I beg to differ 6 with Mr. Tillotson, and I don't know if he was 7 employed at the time. Mr. Montbrial was appointed, I 8 believe, on November 1st of 2004, which was almost two 9 months before Mr. Lynn took the position that the 10 respondent is now saying constituted a denial of the 11 claim. The appointment by the contracting party, SCA, 12 of a man as an arbitrator who, even as a party 13 arbitrator, had a clear and definable conflict of 14 interest, the inability to be impartial and who was 15 representing a party adverse to Mr. Armstrong at the 16 very time he was appointed is relevant in determining 17 whether or not SCA exercised good faith in the 18 investigation and adjustment of this claim. And it is 19 true Mr. Montbrial was stricken as a result of the 20 December 20 hearing, but he -- but the conduct of SCA 21 at issue had occurred almost two months prior to that. 22 (Discussion among the arbitrators.) 23 ARBITRATOR FAULKNER: Go back on the 24 record. The objection is overruled. 25 Please proceed with your next question.</p>	<p style="text-align: right;">Page 969</p> <p>1 A. Yeah, I think Mr. Hamman's assistant believed 2 that it was something that the people on the list 3 would recognize that the rest of the people in the 4 company, if they happened to stumble upon, wouldn't 5 recognize.</p> <p>6 Q. So la Martiniere is a little team at SCA, I 7 mean, made up of you and Bandy and Hamman?</p> <p>8 A. It's the people that we believed were 9 entitled to protection of attorney-client privilege 10 and would be necessarily kept up to date and informed 11 about the matter.</p> <p>12 Q. So was this provided to Mr. Montbrial or not?</p> <p>13 A. I doubt this memo was provided to 14 Mr. Montbrial. Usually if it's provided to 15 Mr. Montbrial, it says Thibeault de Montbrial.</p> <p>16 Q. What about the memo under this one, the next 17 one regarding Mr. Gorksi?</p> <p>18 A. Same.</p> <p>19 Q. Here's a question I had. You interviewed a 20 lot of people in connection with your investigation of 21 this claim, didn't you?</p> <p>22 A. I would certainly agree that I interviewed 23 many people.</p> <p>24 Q. And you made memos of those interviews?</p> <p>25 A. Got tired at the end. Didn't do as much.</p>
<p style="text-align: right;">Page 968</p> <p>1 MR. HERMAN: Thank you, Your Honor. 2 Just for the record, Exhibit 108 is an 3 accurate copy of the order striking Mr. Montbrial, is 4 it not? I'll represent to you it is just to save us 5 all some time if you're prepared to agree.</p> <p>6 MR. TILLOTSON: We don't disagree. That 7 is the order.</p> <p>8 MR. HERMAN: Okay.</p> <p>9 ARBITRATOR FAULKNER: Taken as 10 stipulated, it will be admitted.</p> <p>11 Q. (BY MR. HERMAN) Turn to Exhibit 67, please, 12 Claimants' Exhibit 67.</p> <p>13 A. No, I understand where Claimants' Exhibit 67 14 is.</p> <p>15 Q. This is a memo from you to LTP, I take it 16 that's Lynn Tinker -- Lynn Tillotson & Pinker --</p> <p>17 A. LTP.</p> <p>18 Q. -- and la Martiniere, what is that?</p> <p>19 A. That is an internal distribution list within 20 SCA which consists of a couple of officers, Bob 21 Hamman, John Bandy, Jeff Dorough, myself.</p> <p>22 Q. That's la Martiniere?</p> <p>23 A. Yes.</p> <p>24 Q. La Martiniere is the publisher, French 25 publisher of Mr. Walsh's book?</p>	<p style="text-align: right;">Page 970</p> <p>1 Q. The end being obviously after September 7, 2 2005?</p> <p>3 A. No, I still made some memos, I just, you 4 know, I --</p> <p>5 Q. When did you get tired, let me put it that 6 way?</p> <p>7 A. I don't know. I know that I probably 8 produced a few more memos. I would -- I would be 9 speculating, but in my own mind I think I produced 10 more memos early on.</p> <p>11 Q. And these two memos that are marked as 12 Exhibit 67 are the only memos of witness interviews 13 made during your investigation which have been 14 provided to Tailwind; isn't that true?</p> <p>15 A. We are back at the issue that I don't know 16 what was provided to you.</p> <p>17 Q. Okay. You don't know of any other witness 18 interviews that were provided to us?</p> <p>19 A. I'm willing to take your representation that 20 they were -- as a reasonable basis for believing that 21 they were the only two provided to you.</p> <p>22 Q. Well, I'll make it easy. If I represent to 23 you that these are the only two witness --</p> <p>24 A. I would have no reason --</p> <p>25 Q. -- notations that related to your claim,</p>

Pages 967 to 970

		Page 971			Page 973
1	investigation, adjustment, program manager, whatever,		1	Q. But this is not all of it, is it?	
2	you wouldn't be in a position to disagree with that?		2	A. Good question. The original report was given	
3	A. No.		3	to Thibeault de Montbrial in Paris and it was	
4	Q. Now, Mr. Bandy interviewed quite a few		4	translated by Mr. Bandy and I believe this represents	
5	people, too, did he not?		5	substantially all of the translation that I have	
6	A. You know, you would be best off to ask		6	reviewed, but I would be certain that the report was	
7	Mr. Bandy, but he certainly interviewed French		7	slightly more formal and that there was cover language	
8	speaking witnesses.		8	or a cover page or something besides John's very fast	
9	Q. Well, he interviewed multiple witnesses?		9	translation of perhaps what he thought were the	
10	A. Yes.		10	important parts.	
11	Q. And he made memoranda of those interviews,		11	Q. At least in the United States it's against	
12	too, did he not?		12	the law to go in somebody's residence, whether it's a	
13	A. Most of the time I believe he did, yes.		13	permanent or a transitory, don't you agree?	
14	Q. And those went out to the la Martiniere		14	A. I would categorically state that we don't	
15	distribution list?		15	wish at any time, never asked for anyone to do	
16	A. John is a little more conservative lawyer		16	anything close to illegal and that at all times people	
17	than I am. More of his memos would have gone to		17	working under our direction and control were asked to	
18	myself, Dorough and Hamman and him only.		18	conduct themselves in a professional and appropriate	
19	Q. Mr. Dorough is another lawyer there at SCA?		19	manner.	
20	A. At the time the proceeding began he was		20	Q. Is that -- is that true for these guys?	
21	finishing his third year at SMU. He has since passed		21	A. You're asking me something I don't have close	
22	the bar. At the time he was a law clerk, now he's a		22	to the ability to answer, because I don't know what	
23	lawyer.		23	the laws in France are.	
24	Q. Turn to Exhibit 70, Claimants' Exhibit 70.		24	Q. Well, do you think it's appropriate to go in	
25	As I understood, it might have been Mr. Tillotson		25	someone's room without their permission?	
		Page 972			Page 974
1	yesterday said that you kept -- or you had		1	A. No.	
2	Mr. Armstrong under surveillance to see if he met up		2	Q. And Mr. Montbrial is employed by SCA or at	
3	with Mr. -- Dr. Ferrari in 2002. Was that an accurate		3	least retained by SCA to represent SCA in France, is	
4	statement?		4	he not?	
5	A. Yes.		5	A. He's SCA's French counsel in this matter.	
6	Q. And what was necessary in connection with		6	Q. And when Montbrial hired these private eyes	
7	that surveillance? If you'd go down to the second to		7	and -- you don't know what he told them, I guess?	
8	last paragraph, impossible. Do you see that?		8	A. No, my French is not near good enough.	
9	A. Uh-huh.		9	Q. Well, whatever he told them to do, he was	
10	Q. Well, I was talking to Russell, but I'm going		10	doing as an authorized agent of SCA; wouldn't you	
11	to ask you that, too.		11	agree?	
12	So your private investigators were		12	A. Unless he exceeded the scopes of the laws or	
13	retained to take photos of the interior of rooms that		13	the canons or ethics related to attorneys practicing	
14	were occupied by members of the Discovery team; isn't		14	law in France, in which case that would not be under	
15	that right?		15	our direction or scope, because we wouldn't ask for	
16	A. No.		16	anyone to do either one of those things.	
17	Q. What interiors -- what rooms were they		17	Q. Well, did you limit his authority in any way?	
18	attempting to photograph?		18	A. Limit his authority in any way? We hired	
19	A. I have no idea what -- why we would want to		19	counsel. We expect all counsel that we hire to	
20	take photographs of the interiors of the rooms. I		20	represent themselves in the fashion that Mr. Tillotson	
21	don't understand how that would help us determine		21	does and conduct themselves in that manner and if we	
22	whether or not Lance Armstrong had used drugs.		22	find out they're not, we will replace them.	
23	Q. They were -- these people -- this is a report		23	Q. Well, that's a pretty high standard there	
24	from your private investigator in France, is it not?		24	just right off the bat, but seriously, you told --	
25	A. Yes.		25	A. Seriously, we hire expensive lawyers, we pay	

Pages 971 to 974

Page 975	Page 977
<p>1 them on seven days' notice and we expect a 2 professional and honest performance. 3 Q. What did you tell Mr. Montbrial to do? 4 A. I told Mr. Montbrial that we had received 5 some information that we believed indicated that 6 Mr. Armstrong might be either receiving drugs on his 7 rest days or might be visiting with -- it may have 8 been that I got the information from Montbrial, I 9 don't know, and we agreed that we should engage 10 private investigators for a very limited time to watch 11 the hotel where Mr. Armstrong was staying. 12 Q. And you have no idea why the private eyes 13 were apologetic about being unable to get into the 14 rooms? 15 A. I would suggest to you that there are nuances 16 and differences in the language that neither you nor I 17 can account for and that who knows exactly why they 18 were apologetic. Where is it again? Because I don't 19 see them being apologetic here, but I'm -- it says 20 impossible to take photos of the interiors of the 21 rooms and you're describing that as apologetic and I'm 22 thinking maybe there's something else somewhere that 23 makes it apologetic. 24 Q. Well, do you have any idea why they would 25 note that it was impossible to take photos of the</p>	<p>1 photos and so forth. Do you know where the 2 translation of that is? 3 A. Let's see. 4:00, one element -- 4 MR. TILLOTSON: I'm sorry, Mr. Compton, 5 if I'm interrupting -- 6 A. I don't read French, so I don't know -- 7 MR. TILLOTSON: Chris, stop. He's asking 8 you if you know where the translation is. I don't 9 think he's asking you to literally translate it. 10 THE WITNESS: No, I don't. 11 Q. (BY MR. HERMAN) And do you recall from 12 looking at this what the translation was, if any? 13 A. I suggest that Mr. Bandy's judgment was that 14 that was unimportant and has never been translated, 15 but I'm not sure. 16 Q. Incidentally, when you asked Mr. Bandy to 17 translate certain portions of LA Confidential, how did 18 you decide which portions to translate? 19 A. First of all, Mr. Bandy and I are lateral, so 20 neither one of us take -- 21 Q. When he was asked by whoever asked him -- 22 A. You would have to ask Mr. Hamman, but I 23 believe Mr. Bandy would tell you that he attempted to 24 read the relevant portions. 25 Q. Well, what he translated was the most</p>
Page 976	Page 978
<p>1 interiors of the rooms unless they had been asked to 2 take photos of the interiors of the rooms? 3 A. Well, I could wildly speculate that they had 4 had other clients from other countries with different 5 laws who had expected them to be able to do so and 6 they were informing us that they couldn't. 7 Q. All right. Is it -- well, let me ask you 8 this. There is beneath the notation that Sheryl Crow 9 arrived in the afternoon -- 10 A. I guess that won't happen again. 11 Q. I'm sorry? 12 A. Nothing. 13 MR. BREEN: What did he say? 14 Q. (BY MR. HERMAN) What did you say? 15 A. Nothing at all. I apologize. 16 MR. TILLOTSON: I object to whatever it 17 was as nonresponsive. 18 MR. HERMAN: Oh, okay. 19 Q. (BY MR. HERMAN) Look at the -- look at that 20 below Sheryl Crow arrived in the afternoon, do you see 21 that 16 hours -- no, no, down roughly -- there you go, 22 right there. 23 Now, it looks to me like there are -- 24 there's an indication that at 4:00 p.m. there was a -- 25 something happened at the airport and somebody took</p>	<p>1 scurrilous portions of the book and that's all; isn't 2 that true? 3 A. Again, at the time we were doing this, we 4 were looking at it as a business contract. We were 5 attempting to determine whether or not Mr. Armstrong 6 had used performance enhancing drugs, and it's a 7 192-page monograph, monolith, and we were working on a 8 short period of time and what Mr. -- and I'm sure that 9 Mr. Bandy, if he came across something that exculpated 10 Mr. Armstrong, out of his duty to Mr. Hamman he would 11 have translated it so that Mr. Hamman wouldn't make an 12 improper judgment. 13 Q. Well, the proof would be in reviewing what 14 Mr. Bandy's translation was, I guess, right? 15 A. I guess so. 16 Q. All right. Now, turn to exhibit -- 17 ARBITRATOR FAULKNER: Mr. Herman, before 18 you go too far, will you all be providing us any copy 19 translated by someone else other than Mr. Bandy of any 20 of those sections you deem relevant? I can't read all 21 of it. My Cajun French is not that good, but I can 22 read a lot of it. 23 MR. HERMAN: You mean of this here? 24 ARBITRATOR FAULKNER: Yes. 25 MR. HERMAN: Well, I hadn't planned on</p>

		Page 979	Page 981
1	it, but I certainly can --		1 Orchid Cellmark is.
2	ARBITRATOR CHERNICK: Well, the question	2 A DNA testing facility.	2 Q. And in the first paragraph of this letter you
3	3 is whether there's any issue about anything that's in	3 state that this acknowledges receipt by Orchid	4 Cellmark apparently of the following material, one
4	4 something other than English or translated from	5 trash can liner containing a piece of chewing gum.	5 French.
5	6 MR. HERMAN: No, the import of my	6 Whose chewing gum?	7
6	7 question was that there's obviously -- it looked like	8 A. Lance Armstrong's.	8
7	8 there were more pages to this and I was just inquiring	9 Q. How did you find it?	9
8	9 about that last section because it was the only one	10 A. Well, I found it in the trash can that I	10
9	10 that wasn't translated.	11 believe was in front of the bench in Judge Canales's	11
11	12 ARBITRATOR FAULKNER: Okay. So you're	12 courtroom on February 17th.	12
12	13 not making any other issue of it, so we don't need a	13 Q. Was there another hearing on February 17th?	13
13	14 translation.	14 A. I suspect that if you check the court records	14
14	15 MR. HERMAN: No, no, not beyond the, you	15 that there was.	15
15	know, going in the rooms.	16 Q. So you would have taken it from Judge	16
16	17 MR. TILLOTSON: If it please the panel,	17 Canales's courtroom?	17
17	18 we are not aware of a second page. Mr. Bandy will	18 A. I took an abandoned piece of gum from the	18
18	19 testify so he can clarify.	19 trash liner and the trash liner without touching it	19
19	20 MR. HERMAN: I'm not saying there is. It	20 from the courtroom.	20
20	just looked like there would be. That's what I was	21 Q. So the answer to my question is yes?	21
21	22 asking.	22 A. Yes.	22
22	23 MR. TILLOTSON: Nor are we aware that	23 Q. Did you ask Judge Canales if that would be	23
23	there's any dispute over the translation.	24 all right?	24
24	25 MR. HERMAN: No, there's no dispute over	25 A. He wasn't present. No.	25
		Page 980	Page 982
1	1 ARBITRATOR FAULKNER: Fine. Thank you.	1 Q. And did you get the consent of anyone?	1
2	2 MR. TILLOTSON: Thank you.	2 A. It had been abandoned. I needed no one's	2
3	3 MR. HERMAN: Yeah, except for the	3 consent.	3
4	4 pictures. If there are any photos, I would like to	4 Q. So the answer is no, you got no one's	4
5	5 have those, if there were photos attached, which	5 consent?	5
6	6 apparently there were. But we can take that up	6 A. Correct.	6
7	7 afterward.	7 Q. Now, this is February 17th, 2005, you've	7
8	8 MR. TILLOTSON: Thank you.	8 denied the claim three months previous to that -- two	8
9	9 Q. (BY MR. HERMAN) Do you propose to bring	9 months previous, correct?	9
10	10 anyone to testify here that Mr. Armstrong had any	10 A. Well, you know, if it's important to you to	10
11	11 contact with Dr. Ferrari at the 2005 Tour de France?	11 nail down a date that the claim was denied by, so I	11
12	12 A. No.	12 guess you're referring to December 20th.	12
13	13 Q. Now, let's turn to Exhibit 68, please. You	13 Q. Exactly.	13
14	14 attended the hearing on December 20th that you all	14 A. Okay.	14
15	15 have made reference to here?	15 Q. So the claim had -- you had already denied	15
16	16 A. Yes.	16 the claim and it had been denied for two months?	16
17	17 Q. And Mr. Armstrong attended that hearing as	17 A. You know, once the litigation started and the	17
18	18 well, did he not?	18 panel's order was in place, all this merges.	18
19	19 A. Yes.	19 Q. Is that what you think?	19
20	20 Q. And Ms. Crow?	20 A. It certainly blurs in my mind.	20
21	21 A. We are past -- I know she attended one	21 Q. Well, so you're not content with the	21
22	22 hearing and we are past my recollection of which	22 resolution of this matter to be determined on what you	22
23	23 hearing it was.	23 knew and the basis for the denial of the claim when	23
24	24 Q. Well, Exhibit 68 is a letter from you to	24 you made it on December 20th?	24
25	25 Catherine Long at Orchid Cellmark. Tell us what	25 A. This is an enormously complex investigation	25

Pages 979 to 982

<p style="text-align: right;">Page 983</p> <p>1 that was consistently obstructed by the conduct of 2 Mr. Armstrong and his representatives, and, yes, I 3 would maintain to you that that was insufficient time 4 for a normal course for an investigation of this 5 complexity taking place on this many continents to 6 have been complete.</p> <p>7 Q. Well, why did you deny the claim on the 20th, 8 then, if your investigation hadn't been completed?</p> <p>9 A. Well, we denied the claim on the 20th by our 10 statements in open court that we made -- that we said 11 what we said. Now, once we denied the claim, that 12 doesn't prohibit us from taking further actions to 13 look to see if we might even change our mind. For 14 example, if the DNA test was matched against the 2000 15 samples, it might cause us to change our minds.</p> <p>16 Q. Matched against what 2000 samples?</p> <p>17 A. The frozen ones that you have referred to 18 that they have.</p> <p>19 MR. HERMAN: I'll pass the witness.</p> <p>20 ARBITRATOR FAULKNER: It's about ten 21 minutes of. Any questions from Mr. Chernick, Senator 22 Chernick?</p> <p>23 ARBITRATOR LYON: Are you going to 24 question the witness?</p> <p>25 MR. TILLOTSON: Well, I will use the last</p>	<p style="text-align: right;">Page 985</p> <p>1 enhancing drugs from 2001 to 2004? 2 THE WITNESS: We have no test results. 3 ARBITRATOR LYON: Do you have any 4 evidence in the form of written statements or oral 5 statements from anybody that he took any performance 6 enhancing drugs from 2001 to 2004? 7 THE WITNESS: Yes. 8 ARBITRATOR LYON: Who? 9 THE WITNESS: We have Mr. -- one of the 10 exhibits. So we have Mr. LeMond's statement in August 11 of 2001. We have Mr. Anderson's statement. 12 ARBITRATOR LYON: Let me rephrase it 13 then. Do you have any evidence from individuals that 14 saw him take any drugs from 2001 to 2004? 15 THE WITNESS: No, we have only the 16 admissions. 17 ARBITRATOR LYON: And that is a statement 18 from Greg LeMond, the telephone call that 19 Mr. Armstrong made to him? 20 THE WITNESS: And the statement that 21 Mr. Armstrong made to Mr. Anderson. 22 ARBITRATOR LYON: Anderson. 23 THE WITNESS: There may be more. If I 24 could find the exhibits to my -- it's the piece of 25 paper that you guys -- I've got notes on the</p>
<p style="text-align: right;">Page 984</p> <p>1 ten minutes to question him on just these last two 2 documents so we can move off this witness and start 3 tomorrow or I'll stop and start again tomorrow. 4 ARBITRATOR FAULKNER: What is more 5 convenient for you, the best of the flow of your 6 examination?</p> <p>7 MR. TILLOTSON: Well, I would like to 8 start in general and just present him -- I'm not going 9 to be particularly long with Mr. Compton, maybe 20 or 10 30 minutes, so I would address -- he just finished on 11 this, I plan on asking Mr. Compton questions on this 12 and I'll address that now, or I will just pick up 13 tomorrow. I'll be done within 30 to 45 minutes 14 tomorrow, so I'm not sure we are saving much time by 15 going right now.</p> <p>16 MR. HERMAN: I don't have any objection 17 to you starting tomorrow if that's what you want. 18 ARBITRATOR LYON: Well, I just have one 19 or two.</p> <p>20 ARBITRATOR FAULKNER: Sure. Objections 21 or questions?</p> <p>22 ARBITRATOR LYON: Questions.</p> <p>23 ARBITRATOR FAULKNER: Okay. Proceed.</p> <p>24 ARBITRATOR LYON: Do you have any tests 25 that show that Lance Armstrong took any performance</p>	<p style="text-align: right;">Page 986</p> <p>1 subject -- 2 ARBITRATOR LYON: Okay. 3 THE WITNESS: -- that have been entered 4 as an exhibit, so I would like to look at it. 5 ARBITRATOR LYON: Correct me if I'm 6 wrong, but that conversation between LeMond and 7 Mr. Armstrong, did that occur in 2000? 8 THE WITNESS: August of 2001, after the 9 conclusion of the 2001 Tour de France. 10 ARBITRATOR LYON: Okay. All right. I 11 don't have any other questions. 12 THE WITNESS: No, I would like to 13 complete the answer to my question. 14 MR. TILLOTSON: If you'll turn to our 15 Exhibit 31. 16 ARBITRATOR LYON: Well, if you want to 17 look at it overnight -- 18 MR. TILLOTSON: Yeah, I apologize, 19 Senator. He -- in anticipation of questions like that 20 from Mr. Herman he attempted to compile notes 21 regarding his investigation so he could quickly refer 22 to that. That's what he's referring to. 23 ARBITRATOR LYON: What page is that, what 24 document? 25 MR. TILLOTSON: It would be the</p>

Pages 983 to 986

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Page 987

1 Respondents' Exhibit 31.
2 Chris, if you'll look at it, I can ask
3 you this question tomorrow if there's anything you
4 wish to add, if that's okay.
5 ARBITRATOR FAULKNER: That's fine.
6 MR. TILLOTSON: Thank you.
7 ARBITRATOR FAULKNER: Is that it?
8 MR. TILLOTSON: That's it.
9 ARBITRATOR FAULKNER: Okay. We will
10 resume at 9:00 in the morning.
11 (Proceedings adjourned at 4:55 p.m.)
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Page 988

1 STATE OF TEXAS)
2 COUNTY OF DALLAS)
3
4 I, Nancy P. Blankenship, Certified Shorthand
5 Reporter, in and for the State of Texas, certify that
6 the foregoing proceedings were reported
7 stenographically by me at the time and place
8 indicated.
9 Given under my hand on this the 26th day of
10 January, 2006.
11
12
13
14

15 Nancy P. Blankenship, Certified
Shorthand Reporter No. 7351
in and for the State of Texas
16 Dickman Davenport, Inc.
Firm Registration #312
17 1010 Two Turtle Creek Village
3838 Oak Lawn Avenue
18 Dallas, Texas 75219
214.855.5100 800.445.9548
19 e-mail: npb@ dickmandavenport.com
My commission expires 12-31-06
20
21
22
23
24
25

Pages 987 to 988

