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IN THE COURT OF ARBITRATION FOR SPORT

IN THE MATTER OF FLOYD LANDIS,

CAS 2007/A/1394

FLOYD LANDIS V. UNITED STATES ANTI-DOPING AGENCY

DECLARATION OF FLOYD LANDIS

I, Floyd Landis, declare and state as follows:

1. I am over the age of 18 and have personal knowledge of the following facts and, if called as a witness, could and would competently testify to them.

2. I am 32 years old, and I reside in Murrieta, California.

3. As a result of the order issued by the AAA arbitration panel on September 20, 2007, I am currently ineligible to compete in UCI-sanctioned events, a suspension that ends on January 29, 2009.

4. We are here because the French lab conducting the anti-doping analysis during the 2006 Tour de France reported that I tested positive for the use of testosterone after Stage 17 of that Tour. I challenged that finding in the fall of 2006, and since that time, have been focused on little more than clearing my name and contesting those findings. That is why I'm here today.

5. By way of background, I began cycling on a competitive basis when I was in high school, starting off on mountain bikes. I entered –and won--my first race at the age of 15.

6. By mid-1998, I decided to make the switch to road racing, which I found to be a better fit for me, given my preference for long training rides. The long training hours that seemed to suit me made it easy for me to transition to road cycling. I turned professional that year so I could enter national championship races.

7. I joined the Mercury team in 1999, and rode with them through 2001. While with Mercury, I competed in my first European road race, the Tour de l'Avenir, run by the same organization that runs the Tour de France. That race is open only to those riders that are 25 years old or younger, and only one American–Greg LeMond–has ever won. I led for a stretch, but ended up finishing third, one of the highlights from my time with Mercury.

8. It was during my time with the Mercury team that I started to really develop a feeling for my road racing strengths and weaknesses. I realized that longer stage races provided me better opportunities to compete successfully because I often struggled on the first day, or first several days, of a race, which meant that I was less competitive in the one, two, or even three-day races. Learning this helped me focus my efforts on the longer multi-stage races, and had an influence on the direction that my career took.

9. Although I have no specific memory of it happening, I know I must have been drug-tested while riding for Mercury. All tests were negative. I never used testosterone or any other performance-enhancing substance while with Mercury, or at any other time.

10. The Mercury team eventually dissolved due to financial problems suffered by one of the sponsors, so I switched to the Postal Service team in 2002. Lance Armstrong was the team leader then, and my role was to help Lance win the Tour de France. It was when I started riding with the Postal Service team that I really began competing regularly in the great European stage races. I would spend entire summers in Europe training and competing in these races. For example, I was lucky enough to get to compete in the Dauphine Libere during my first year with the team, where I came in second. I think that boosted my standing with the Postal Service team, and convinced them that I had what it takes to help Lance during the Tour de France. I was privileged to be able to ride in the Tour de France each year that I was a member of the Postal Service team.

11. During my first year with the Postal Service team, I did well, finishing in the top 10 quite a few times. But my second year was tougher because in January of 2003, I suffered a traumatic crash on the bike, falling so hard that I broke my right hip. It was a very bad injury, and it was months before the muscles around my hip were working properly at all. So I spent a

substantial part of 2003 just trying to rehabilitate that hip. It was all I could do to get myself in decent shape in order to compete in the Tour that year.

12. Fortunately, the rehabilitation paid off, and my third year with the Postal Service team–2004–was my best year ever. I helped Lance win the Tour, and finished fourth in both a mountain stage and a time trial, 23rd overall. I was drug-tested on numerous occasions while riding for the Postal Service team, including at the Tour de France. All tests were negative. I never used testosterone or any other prohibited substance while with Postal Service, or at any other time.

13. Right after that 2004 Tour de France, I made the decision to sign with the Phonak team. I was looking for a chance to ride for a team that was not focused so completely on one race. I had been offered a chance to join a number of other teams, including Rabobank, Quick Step, and Francaise Des Jeux, but chose Phonak because I knew some of the riders on that team, people that I could socialize with and communicate with. Training in Europe can be kind of a lonely business, particularly when you are not proficient in other languages, as I am not. So it was important to me to have some teammates that I could talk to, and by 2005, I was riding for Phonak.

14. Phonak had its own internal doping control program, a program that became more strict during the two years that I spent with the team. In addition to the various monitoring and testing requirements, the team had strict consequences for doping. The team policy was that doping was completely unacceptable, and they stressed that because Phonak *was* a team, they hoped no member of the team would jeopardize the chances of the others by doping. Any suspicion of doping would result in immediate suspension, while a positive test would get the

rider fired. I agreed with this policy then, and I agree with it now. Doping is terrible for both the individual rider, and for his team.

15. Though I had another hip surgery before the 2005 season, I had a strong year that first year with Phonak. I won the time trial at the Tour de Georgia, finishing third overall. I was 9th in the Tour, my best finish ever. But the time spent rehabilitating instead of training kept me from riding as well as I thought I could, so I directed my focus to having a great year in 2006.

16. I was able to begin 2006 without having more hip surgery, and that left me free to spend all of my energy actually training for the racing season. By this time, however, I did have a prescription–and a therapeutic use exemption (TUE)–for cortisone injections because my hip had continued to deteriorate. I also had a thyroid condition, for which I take medication, though it is my understanding that this medication is not a banned substance. But the fact that 2006 did not begin with a surgery was a huge plus for me, and I started the year strong. I won the Tour of California, the Pyrenees and the Tour de Georgia. That strong start was ultimately capped off with my win in the Tour de France, which is, of course, what brings me here.

17. The Tour de France is as grueling a race as they come. By the time I reached Stage 16, however, I was in the lead in the general classification, and in a good position to win. But as anyone who follows cycling knows by now, I had a terrible day on Stage 16 of the 2006 Tour de France. Stage 16 was the hardest mountain stage, and though mountain stages are generally good for me, I just wasn't able to perform up to my usual standard on that day. It was hot, and I failed to start eating and drinking early enough in the day. In a race like that, it is important to eat and drink regularly during the first four to five hours of the race, whether you feel like you need to or not. I didn't do that. So the combination of the heat, insufficient calories and insufficient liquid caused me to start "bonking"–I just ran out of energy. By the last big

climb, I was spent, and just had to ride at my own speed and give up trying to fend off the attacking peloton. I ended up losing about eight minutes to the winner of that stage, which dropped me from first to 11th. I've certainly had this happen before, but not in front of the world, on international television. It was an awful day on the bike.

18. I felt terrible at the end of the race–very cold, exhausted, and hungry, not to mention disappointed. I needed food and quiet, away from the TV cameras. So I stayed away from the media, took a shower, ate, rested and started feeling better. You fix the "bonking" feeling by giving your body fuel, just like a car. Once you do that, you're better. And so about and hour and a half after the race, I did feel better. So I spoke to the reporters for a few minutes, then joined some friends for a beer and dinner. We all ended up back at the hotel talking about the next day's strategy and having cocktails–the Jack Daniels that has been mentioned so much in the media. It was then that I developed my strategy for the next day--Stage 17-- another mountain stage.

19. Because I had so much time to make up and only a few stages in which to do it, it seemed that the only strategy that gave me a real chance to win was to attack early, and to just try and lead all the way to the end, treating the rest of the race like a time trial. That late in the Tour, everyone is tired, and there was a decent chance that if I attacked early and broke away, the peloton would assume I'd never last, causing them to miscalculate and wait too long to start chasing me. And that's basically what happened.

20. Although Stage 17 was another hot day and another mountain stage, I didn't repeat my mistake of the day before. I started eating and drinking water early in the day. At the beginning of the race, I started to implement the strategy we'd come up with the night before. I had my team ride hard up front at the beginning to set a blistering pace. This had the effect of

breaking the peloton into smaller parts, making it more difficult for the other riders to get together and talk. I didn't want to make it easy for the peloton to coordinate a response to my attack and break-away. After my team had done this, and the peloton had broken up some, I made my attack and broke away. This occurred after the first climb.

21. By breaking away early, my team car was able to stay with me, handing me bottles of water every few minutes. I went through more than 70 bottles of water that day; some I poured over my head to keep my body from overheating, and some I drank. I stayed cool and well-hydrated during Stage 17, which was a huge benefit and advantage for me, and a big difference from the day before. When you are stuck in the peloton, it is just difficult for your team to get water and food to you regularly. So the fact that I was in front and on my own, within easy reach of food and water when I needed it, gave me an edge over the riders in the peloton.

22. My strategy paid off; the peloton did miscalculate, waiting too long to chase. Patrick Sinkewitz stayed on my wheel for awhile, but he eventually dropped away as well. At one point, my time advantage had gotten up to nine minutes. I ended up winning the stage with about a five minute lead over the next rider to finish. That left me only about 90 seconds off the lead, which I was able to make up by the final time trial, when I regained the yellow jersey and kept it, winning the Tour on July 23. I was completely exhausted, but it was a very proud moment for me.

23. I got to enjoy my Tour win for only a few days. On about the 26th of July, I was staying at a hotel in Holland and my team directors came and told me there had been some kind of positive test. And it was an awful feeling–I had no details, no information, and certainly no explanation for what was happening. No one seemed to know any real details. My recollection

is that we had no test results or any information of that sort. I was confused, upset, and I dreaded facing the media firestorm that I knew I could expect when the information became public, especially since I was still in Europe and still so close to Paris. Judging by the way these things had been handled in the past in other cases, I was afraid that the information would *not* be kept confidential as the rules required, which is what happened.

24. Telling my wife was the worst part. She didn't understand, and I couldn't explain anything to her. My thought was that maybe there was confusion about the cortisone I was taking for my hip, and the status of my TUE. I just didn't know. This has been terrible for her, and for my family.

25. As I feared, the results of the test were released before they should have been, and the media wanted answers before I was prepared to give them. One thing that I think was made clear from my arbitration hearing was just how very complex the analysis of these urine samples is from a scientific standpoint, and I was just not in any position to realize or address that. So I ended up with what felt like hundreds of microphones in my face and hundreds of reporters asking for an explanation I just didn't have. Because I had no idea what the test was really about or why it came out the way said.

26. In order to deal with the media onslaught, I ended up giving a press conference in Madrid before I should have, because I still had very little information about the testing. I don't even recall having been given the test results at that time; yet, I was being asked to explain what had happened. So I read a statement prepared for me by the people I'd hired to help me, a statement that speculated when it shouldn't have. It's difficult to express how hard it is to deal with that kind of media pressure, and to be badgered for answers about something you don't remotely understand yourself. I felt the need to explain what had happened, but I had no

explanation. I'm a cyclist, not a scientist. So I speculated about whether my natural level of testosterone could have been to blame. During the days that followed, I also speculated that it could have been the alcohol or the cortisone that were at the root of the problem. I was more desperate for answers than anyone, but I shouldn't have tried to explain something I didn't understand myself.

27. As I mentioned, Phonak had a policy of terminating riders with positive doping tests, so not surprisingly, I was fired after the results of my "B" sample test came back. After being fired, I got to read comments made by the head of the World Anti-Doping Agency, insinuating I was violating all of the virgins within a 100-mile radius, comments my wife and parents got to read about as well. While I'm pursuing this action to clear my name, I got to read that the head of UCI Cycling had decided I was guilty before any of the evidence had been put on.

28. I was drug-tested numerous times during the Tour, and during my time with Phonak. I was drug-tested at the Tour of California, the Dauphine and the Tour of Georgia. All tests were negative. Apart from the test following Stage 17 of the Tour de France–the test that I am contesting here--I had never had a positive drug test. I did not take testosterone, and I did not take any other prohibited substance while with Phonak in or at any other time. I certainly did not take them during the Tour de France.

29. I rode well during Stage 17, but no better than I've ridden on other days in my career. In fact, my 281 watts average power output that day was almost exactly what my average power output was during at least two stages of the 2005 Tour de France, when I averaged 282 watts and 285 watts. I certainly did not use any testosterone or any other prohibited substance

between the 16th and 17th stages of the Tour de France, or at any other time during the Tour, or during my career.

30. I did not race again in 2006, but did have a much-needed hip-replacement surgery that September. The fall of 2006 is also the time that I launched my challenge to the positive test in an attempt to clear my name.

31. My life has been consumed by that effort, as have my assets, and much of the patience and energy of my friends and family. I lost my best friend, my father-in-law, to a suicide after the news came out. I've spent the last year and a half sticking my hand out to strangers to raise the money to pay for my legal defense. If you get "Google Alerts," or any other sort of online alert for news on a particular topic, you'll see that practically every day a journalist somewhere is writing stories calling me a cheater even now, 18 months after the race. I've read tacky comments about my parents in the paper. My reputation has been ruined, probably beyond repair. If I lose this appeal, I'll always be the American that rode his way to the yellow jersey on a testosterone patch. If I win, I'll still be the American that rode his way to the yellow jersey on a testosterone patch, I'll just be the one whose "rich American lawyers" got him off.

32. I didn't take testosterone during the 2006 Tour de France or at any other time. Paying that price to win a bicycle race is not who I am. You get rewards in cycling because of the long, hard, hours you spend on the bike. The work translates into results, and you undermine and demean your own effort if you taint those results by introducing doping into the picture. I want to see my own work translate into success on the bike, and winning by doping won't get me that. Winning is great, but you can't be proud of winning if you cheated. The minute you go

down that road is the last minute you get to believe in, trust, and be proud of your own accomplishment in a sport.

33. In the course of trying to understand the scientific evidence and the various rules that apply to this situation, I've learned a lot about the way the WADA Code and the whole anti-doping scheme are supposed to operate, and about the way they did operate in my case. These are things that I understood and believed in generally before this experience, but I understand it much more thoroughly now. Athletes like me agree to follow the rules of this Code, and to submit to testing, but we've got to count on the fact that everyone else is doing their part, too. Because it's our reputation on the line. And when you see a lab that has made as many mistakes as this one did, whether these mistakes are enough to carry my "burden of proof" or not, it still looks like the system is *not* doing its part to make sure that the athletes' reputations are in good hands. When you have a strict liability system in which the athletes have no real defenses, a system that turns on the results of a scientific test, the science ought to be *good.* The labs ought to have the same obligation to follow the rules that the athletes do. Otherwise, you've sold the athletes a bill of goods. That's what I feel happened to me.

The Leadville 100

34. USADA now claims that I violated the terms of my suspension by riding in the Leadville 100 in August, 2006. I did ride in that event, but I only did so after being assured by the race organizers that the Leadville 100 race was *not* a USA Cycling sanctioned event.

35. The Leadville 100 is organized by Ken Chlouber and Merilee O'Neal. As I understand it, it was organized as a fundraiser for the city of Leadville. Mr. Chlouber is the Colorado state senator representing Leadville.

36. In order to ride in the Leadville 100, it is not necessary to hold a USA Cycling license. That is one reason I was able to ride in the event –I held no USA Cycling license in August, 2006. Nor did I purchase a one-day license in order to ride. This was no sort of special dispensation for me alone; Ken Chlouber and Merilee O'Neal told me that more than one-half of the 900-odd competitors were unlicensed, and that they have never required a license as a precondition to participating in the race. No prize money is awarded for winning the Leadville 100, and no USA Cycling points are awarded.

37. Prior to my participation, I spoke to Mr. Chlouber and Ms. O'Neal about my situation and my suspension, and made clear to them that I could not ride in USA Cycling-sanctioned events. I was frank with them, and told them in no uncertain terms that I could not participate in the Leadville 100 if it was a USA Cycling-sanctioned race. It was my understanding, based on my conversations with Mr. Choulber and Ms. O'Neal, that it was their belief that the event was not sanctioned by USA Cycling, though they were purchasing the liability insurance that USA Cycling made available to event organizers for a commission fee. Because they required no license, gave no prize money, awarded no points, and did not organize the event into race categories typical of USA Cycling-sanctioned races, they told me that they believed that the race was not sanctioned by USA Cycling. Even today, the Leadville 100 does not appear on any of the USA Cycling National Mountain Bike Calendars.[1]

38. In addition, Ms. O'Neal reported calling persons at USA Cycling on at least two occasions prior to the event –the last occasion being in the days immediately preceding the event

[1] While I was unable to find a 2007 USA Cycling National Mountain Bike Calendar remaining on the Internet, I was able to locate the 2008 calendars for the USA Cycling-sanctioned Cross Country, Gravity, and Ultra Endurance races. These are the races that I understand to be the USA Cycling-sanctioned races, and the Leadville 100 does not appear on this list.[These 2008 calendars are attached as Exhibit 1 to this declaration.]

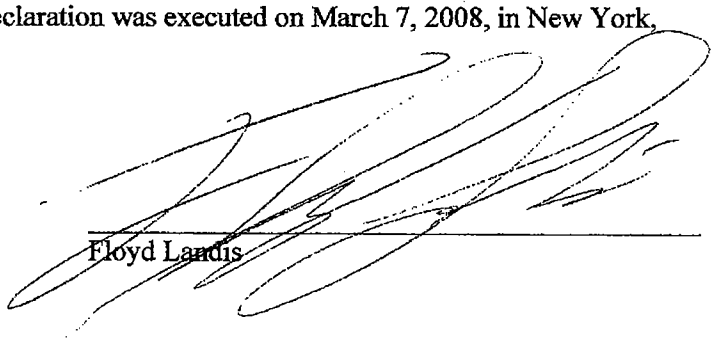
– to specifically discuss my participation. She did this in order to make sure that USA Cycling knew that I intended to ride in the Leadville 100, and to make certain that USA Cycling had no problem with me participating in this event. Ms. O'Neal has reported to me that she was assured on at least these two occasions that USA Cycling raised no objection to my riding, and saw no problem with my participation in this event. I believed Mr. Chlouber and Ms. O'Neal, and I relied on their representations.

39. That being the case, I was surprised to read in USADA's brief that the agency believed that my participation in that event violated the terms of my suspension. Before reading USADA's response brief, I had never seen the document marked as Exhibit 146, the document that is titled "Mountain Bike Competitive Event Permit Application." As far as I knew, USA Cycling's sole involvement in the Leadville 100 was to make liability insurance available to the organizers. To the extent that this document attests to a more significant relationship, it comes as complete news to me. But then, I am not privy to the administrative paperwork that organizers may file prior to an event.

40. When I participated in the Leadville 100 last August, I did not believe that it was a USA Cycling-sanctioned race. That understanding was based upon my conversations with the organizers, and upon the fact that no license was required of me or anyone else that wanted to participate. I took what I believed to have been reasonable steps to make sure that I was not violating the terms of my suspension–I was frank with the organizers, and I obtained clear indications from them that a) the Leadville 100 was not sanctioned by USA Cycling; and b) USA Cycling knew about my participation in that event before it occurred and raised no objection to it. Nor has USA Cycling *ever* indicated to me that it considered this a sanctioned event in which I should not have participated.

41. If the Leadville 100 *was* a USA Cycling-sanctioned race, that is news to me. It means that the organizers themselves were confused about the nature of their event. I relied upon their representations.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This declaration was executed on March 7, 2008, in New York, New York.



Floyd Landis

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