

IN THE MATTER OF AN ARBITRATION
BETWEEN

LANCE ARMSTRONG and §
TAILWIND SPORTS, INC. §
§
Claimants, § ARBITRATION BEFORE THE
§ HONORABLE RICHARD
VS. § FAULKNER, RICHARD
§ CHERNICK AND TED LYON
SCA PROMOTIONS, INC. and §
HAMMAN INSURANCE SERVICES, §
Inc. §
§
Respondents.

ORAL AND VIDEOTAPED DEPOSITION OF
STEPHEN SWART
JANUARY 11, 2006
VOLUME 1
CONFIDENTIAL

ORAL AND VIDEOTAPED DEPOSITION of STEPHEN SWART, produced as a witness at the instance of the Respondents, and duly sworn, was taken in the above-styled and numbered cause on the 11th of January 2006, from 3:12 p.m. to 4:11 p.m., before Dawn Workman Bounds, CSR in and for the State of Texas, reported by machine shorthand, at the offices of Richard Faulkner, 12655 North Central Expressway, Suite 810, in the City of Dallas, County of Dallas, State of Texas.

A P P E A R A N C E S

FOR THE CLAIMANTS:

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

FOR THE RESPONDENTS:

Mr. Jeffrey M. Tillotson
LYNN TILLOTSON & PINKER, L.L.P.
Suite 1400
750 North St. Paul Street
Dallas, Texas 75201

ALSO PRESENT:

Mr. John Bandy
Mr. Jeffrey Dorough
Mr. Chris Compton

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P R O C E E D I N G S

(Videotape No. 1.)

THE VIDEOGRAPHER: Good afternoon. This is January 11, 2006. The time is 3:12 p.m. This is videotape number 1 of the deposition of Stephen Swart. The witness may be sworn in.

STEPHEN SWART,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. TILLOTSON:

Q. Mr. Swart, my name is Jeff Tillotson, and I represent a company called SCA Promotions, Inc. that is involved in a legal dispute here in the United

States with Lance Armstrong and a company called Tailwind Sports.

Are you generally familiar with that dispute?

A. Yes, I am.

Q. Would you please give us your full name.

A. Stephen Quirinus Swart, S-W-A-R-T.

Q. Where do you live, Mr. Swart?

A. Auckland, New Zealand.

Q. Are you a New Zealand citizen?

A. Yes, I am.

Q. How old are you?

A. 41.

Q. What is your current occupation?

A. Self-employed.

Q. Were you a professional cyclist?

A. Yes, I was.

Q. What time period were you a professional cyclist?

A. From 1987 through to November 1995.

Q. When I say a professional cyclist, did you compete in various events around the world?

A. All. Predominantly, yes.

Q. And did you participate in races alongside Mr. Armstrong?

A. Yes, I did.

Q. When I say participate, did you compete against him and with him?

A. On both extracts.

Q. And when I say compete against him, meaning racing against him, how would you compete with him? Were you a member of a team?

A. Correct.

Q. Explain to the -- to the members of the panel, hearing this video, when we say a team, what are you talking about?

A. A team is a -- was -- is a group of riders that race with -- under either -- what would you call -- a branded -- like an organization.

Q. And do they cooperate or work together in effort to win particular events?

A. That's correct.

Q. Okay. Now, as a professional cyclist, did you have contact with Mr. Armstrong before you were a team member with him? Did you deal with him and know who he was?

A. Yes, I did. Yes.

Q. And then how long were you a team member of Mr. Armstrong's?

A. For two years, for the period of 1994 and 1995.

Q. What team were you a member of with Mr. Armstrong?

A. The team -- well, the team brand was Motorola, and I think -- if you wanted the team name, it was Southland Corporation.

Q. Those would be the sponsors of the team?

A. The sponsor was Motorola, yes.

Q. Who actually owned the team, do you know, during that time period?

A. My understanding was Southland -- South -- is it Southland Corporation?

Q. Now, 2003, were you interviewed in connection with the book being prepared by David Walsh?

A. I had been contacted by Dave -- by David Walsh, outlining his -- what he was trying to do, yes.

Q. Did you know who David Walsh was before he contacted you?

A. Yeah, I did.

Q. Had you ever spoken to him before for an interview or for any kind of article he had written?

A. No, I hadn't.

Q. Did he tell you how he got your name?

A. Yes, he did.

Q. What did he say?

A. I had actually been contacted by a -- another reporter in New Zealand, Phil Taylor, who actually had -- had known David Walsh, which put him in contact with me.

Q. Did you talk with Mr. Walsh?

A. Yes.

Q. Consent to an interview, in effect?

A. Yes.

Q. Was it in person or over the phone?

A. In person.

Q. And did you discuss with him certain occurrences that happened between you and

Mr. Armstrong?

A. Yes.

Q. And do you know if those -- your statements made it into Mr. Walsh's book?

A. Yes, with my approval.

Q. Okay. Did you -- were you given an opportunity to see what he was going to write about what you said?

A. Yes, I did.

Q. And did you approve it?

A. I approved it.

Q. And was it accurate in the book as to what Mr. Walsh reported you said?

A. What I said, yes.

Q. Is there anything about what you said to Mr. Walsh in the book that you wish to now take back or say inaccurate or wrong in some way?

A. Not that I'm aware of.

Q. I want to cover with you some of those things you told Mr. Walsh, if I could.

First, I understand that one of the things that you have told Mr. Walsh and has been reported was that you were involved in connection with an incident with Mr. Armstrong in which you were offered money to allow Mr. Armstrong to win a race.

Are you aware of -- of -- of those statements?

A. Yes.

Q. Can you describe for us, in your own words,

exactly what happened?

A. It was in 1993. There was a race series in West Virginia, or sorry, not West Virginia alone, but in the West Coast, consisted of three ra -- three races: Pittsburgh, the Tour West Virginia, and the Philadelphia Core States Classic, a one-day race. The prize for the overall that was offered that year was a million dollars.

After Pittsburgh where Lance showed his dominance and then continued on through West Virginia to dominate that race, prior to its finish, we were approached to -- to obviously help them -- well, basically not help them, but to not attack them.

Q. When you say not attack them, what do you mean?

A. Basically just go with the flow, not actually make life difficult, or, you know, like you would be aggressive in a race, to --

Q. To not push or challenge Mr. Armstrong?

A. That's correct.

Q. To, in effect, allow him to -- to continue to win?

A. Yes.

Q. Who approached you to ask you to do that?

A. The discussion came up through -- not -- not -- not directly through me, but through Scott McKinley.

Q. Who was he?

A. He was another member of my team -- my team

at that stage, Coors Light -- of Coors Light.

Q. So your team at that time was the Coors Light team, and Mr. Armstrong was a member of the Motorola team?

A. That's correct.

Q. And your teammate Scott McKinley was approached?

A. Yes.

Q. Do you know who he was approached by?

A. I think it was Frankie at the time.

Q. Mr. Andreu?

A. Yes.

Q. Now, where did they approach you, or where did they approach Mr. McKinley? Where did this take place?

A. I think it was probably -- basically, the discussion took place on the road as we rode, because there's plenty of time for talking, you know, as you're out there for quite a number of hours.

And then, obviously, the real discussions took place after, at the -- at where we were staying -- or where they were staying.

Q. Okay. You state in your affidavit -- it's the statement that you've given or prepared that you met in Lance Armstrong and Phil Anderson's hotel room --

A. Yes.

Q. -- to discuss this matter; is that true?

A. That's right.

Q. Who is Mr. Anderson?

A. Phil Anderson --

Q. Yes.

A. -- from Australia. That's another Hicks cyclist.

Q. What transpired in that hotel room?

A. Basically, we'd come to an agreement about what was on offer and what we had to do to accept that and acceptance of that offer.

Q. What was the offer?

A. If my memory serves me right, I think it was \$50,000, if we -- like I said, we didn't be aggressive and challenge for the rest of the race and obviously for the final race in Philadelphia.

MR. HERMAN: I'm sorry. Could you -- I didn't get that last part.

Would you mind repeating that, please.

THE WITNESS: If we didn't challenge for the -- for the finale of West Virginia, and we obviously -- and Lance was -- gained victory in Philadelphia.

Q. (BY MR. TILLOTSON) If that happened, you would get what? \$50,000?

A. Yes.

Q. So, in effect, is it fair to say that you were offered money to not challenge Mr. Armstrong, to allow him to win?

A. That's correct.

Q. If Mr. Armstrong had won West Virginia and

was winning Philadelphia, why would he pay you and your teammates \$50,000 to win?

A. It's a bit like ensuring that you've taken one competitor out, isn't it?

Q. Did you feel wrong in accepting this?

A. No, I mean, we felt that Lance was the -- by far superseded any of us as far as strength-wise competitively. We didn't feel like any of us had the ability to win or to be able to be -- to put ourselves in a position to win. So, you know, it's a -- it's a business, and we took it -- we took the business option.

Q. Mr. Armstrong was present when this took place, this conversation?

A. Yes.

Q. Did he actually make the offer?

A. I think it was -- coincided with Phil's agreement, yes.

Q. Now, what happened if they didn't win? Would you get the bonus?

A. No, we didn't get the bonus.

Q. Did you guys agree to keep this quiet?

A. Yes.

Q. Was that specifically mentioned, let's keep it quiet?

A. Yes.

Q. Why?

A. Well, it's not a -- it's not ethical if you look in the -- in the sporting arena, is it?

Q. You say in your affidavit that if your deal had become known, the insurance company would have refused to pay.

Was there a discussion about that?

A. No, that didn't come to light, as in -- as in the discussion; but, obviously, you would tend toward that, wouldn't you?

Q. Now, was there any more discussion about this particular arrangement that you guys reached, other than in this hotel room?

A. No.

Q. What happened for the remainder of the West Virginia race?

A. We played along -- we just played along accordingly, and no one would have seemed the wiser.

Q. What position were you in at the time you guys made the -- the arrangement? I mean, in terms of the race, where were you?

A. In the race, Lance was leading. I think a gentleman by the name Steve Hegg was second overall.

MR. HERMAN: Steve who?

THE WITNESS: Steve, Hegg.

MR. HERMAN: H-I --

THE WITNESS: H-E-G-G.

MR. HERMAN: Sorry. Go ahead.

A. That's -- don't -- don't quote me on than that. I'm not sure. And one of our teammates, Mike Engleman was third.

Q. Where were you? Fourth or fifth?

A. Somewhere in that arena, yeah.

Q. And how did you finish up in that race?

A. Pretty much the -- the overall classification didn't change from that point on.

Q. But it is your testimony here today that you held back and didn't attack Mr. Armstrong or his team?

A. Well, we didn't challenge them any further at that point. Whether we were able to or not, we'll never know.

Q. Okay. Now, then the third race was Philadelphia?

A. Yes.

Q. And did Mr. Armstrong win that race?

A. Yes, he did.

Q. And did you continue to not challenge him or hold back?

A. If it's -- my opinion is I don't think we were able to challenge him. He made all the right moves. He was definitely the strongest on the day.

Q. But, nevertheless, did you consider yourself to be trying to comply with the agreement you had reached with him regarding the \$50,000 bonus and not challenge him?

A. I just -- I don't think we -- I don't think we -- my -- my -- my opinion is, on the day, we didn't have -- I didn't have the resources. I don't know about my other team -- my other team members, but, myself, I couldn't have done anything about it.

Q. Okay.

A. So as far as I was concerned, I was walking away with a bonus.

Q. You were -- you were getting paid some money to -- to agree to not challenge Mr. Armstrong, even though you didn't think you could challenge him?

A. Correct.

Q. So for you it was essentially a bonus? I mean, a --

A. Correct.

Q. Now, were you in fact paid the money?

A. Yes, we were.

Q. Who paid you?

A. We received it -- it was a period later, a few weeks later. It was just in the form of cash.

Q. Was it distributed among your team members?

A. Yes.

Q. How much did you personally get; do you recall?

A. That, I can't remember. I think it was only 3 to 5,000, something like that.

Q. Had you ever told anyone that this had happened until you talked to Mr. Walsh?

A. I had mentioned to it Phil Taylor.

Q. Who is he?

A. The reporter from New Zealand.

Q. Was this ever publicly reported before Mr. Walsh put it in the book, that you're aware of?

A. Not that I'm aware of.

Q. Did you and Mr. Armstrong ever talk about

this arrangement after it happened?

A. No.

Q. Did he ever acknowledge to you that this took place?

A. No.

Q. Now, after this event in 1993, were you recruited by the Motorola team in '94?

A. Yes.

Q. Did you become a member of that team?

A. Yes.

Q. So at this point, you'd now moved to be a member of the team for -- with Mr. Armstrong?

A. Correct.

Q. How was 1994 as a -- as a year for the team, how did it do?

A. Performance-wise, it didn't live up to its expectations.

Q. Well, did you have difficulty competing against the Europeans?

A. Yes. I mean, for me, it was going back to Europe where I hadn't raced for -- since '88 and returning there and showing -- and fitting in with the team. And there was just -- it just wasn't happening for the team, you know.

Lance was world champion from the previous year, and we were obviously expecting some results; but, obviously, as time went on, things didn't progress.

Q. How was it you were recruited by the Motorola

team? Who recruited you?

A. I -- they don't have -- there's no sort of set structure. I made contact -- I had made contact with them, but I think guys on the -- you know, the existing guys racing -- guys racing on the team can make a -- you know, talk to management and say, hey, you know, check -- you know, see if this guy's -- or, hey, you know, this guy's good, he could fit in. So I think it was a bit -- it was -- it was both.

Q. Now, you say in your affidavit, or the statement that you gave, that you were unable to keep up with the European cyclists who you were sure were gaining advantage through their illegal use of the drug EPO?

A. Uh-huh.

Q. Is that true?

A. I believe so, yes.

Q. What made you think that the Europeans at that time period were using EPO?

A. Well, it was common -- it was highly talked about amongst us, not that you actually physically see it happening, like taking it, administering it, but, you know...

And then when -- seeing them actually race, you could see the difference in their performance.

Q. Were -- were those riders stronger at higher altitudes, for example, or in climbing?

A. Altitude didn't actually come into effect.

They were just stronger.

Q. Did you ever see any rider take EPO?

A. No, I didn't.

Q. Did you ever talk with any rider about taking EPO?

A. Not in 1994, no.

Q. What does it -- what is -- at that point in time, what was your understanding as to what EPO did to you physically that allowed you to be stronger?

A. What it does it increases your red blood cell count, which in turn provides more oxygen to your muscles, which in turn helps you recover.

Q. Now, you stated in your affidavit that in March of 1995, after the Milan/San-Remo race, you went to Como where a number of the Motorola team were staying, including Lance Armstrong, Frankie Andreu, Kevin Livingston, and George Hincapie, as well as the team doctor, Max Testa.

Do you recall that?

A. Yes.

Q. Will you tell us, in your own words, what happened while in Como at the hotel with those individuals?

A. After the race, or the following day, we went out for a -- a recovery ride, which is just basically a -- just a simple piddle down the road, no pressure, no real intensity whatsoever where, you know, you basically ride for maybe a couple of hours and just talk about anything and all sorts.

And one of the discussions there was about EPO and how we were still riding at such a disadvantage to the European teams and having to look seriously on how to rectify the problem.

Q. Who was participating in that discussion?

A. Out of the riders there, myself, Lance, Frankie were the main -- you know, we weren't like sitting in a group all talking through. It was basically one on one, as it happened.

Q. So you're riding, and as you're riding, you're also talking?

A. Yes.

Q. Did you talk with Lance Armstrong about the need to start using EPO to be competitive?

A. We had -- we had -- we had a discussion about it, yeah.

Q. What did Mr. Armstrong say?

A. Well, basically saying that, you know, he didn't get into the sport thinking that it would -- you know, that this is why he got into the sport -- why he got into the sport; but, you know, you have to do what you have to do.

Q. Did Mr. Armstrong say, while you guys were riding, that he was going to start an EPO -- start using EPO?

A. He did -- he said that -- he didn't say that he was going to -- he didn't say exactly when he was going to start, but he did -- he did say, you know, if we're going to the tour, we've got to -- we've got to

perform. We need the results.

Q. What does -- what did that mean?

A. I think he just said -- you didn't have to be a rocket scientist to figure it out, you know. If we were going -- if we were going to be competitive, there was only one -- one road to take.

Q. You say in your statement that the feeling was that we needed to begin an EPO program, even if it were illegal and a violation of the rules. And it was agreed that those who were racing in the Tour de France would participate in this program.

Is that what happened on that road race -- during that ride?

A. That's -- that's the conclusion that came out of it, yeah. We weren't all -- not the whole -- the whole team that was racing the tour -- that was taking part in the tour that year weren't all on that ride.

Q. Okay. You say also in your statement that Lance Armstrong fully participated in the discussion and expressed his view that we should begin an EPO program.

Did that happen? Did he say those words?

A. To that effect, yes.

MR. HERMAN: Jim, would you please ask him a question, rather than reading his testimony and asking him to confirm it so that I don't have to make objections as to the leading nature?

MR. TILLOTSON: Sure, Tim.

Q. (BY MR. TILLOTSON) What did you conclude

about Mr. Armstrong and EPO at the end of that ride?

A. That for us to be competitive at the tour that year, that we needed to start a medical program of EPO.

Q. What transpired next with respect to this -- this medical program?

A. It was basically a one on -- done on an individual basis, and we took care of matters in our own way.

Q. How did you go about it?

A. I went about it through procuring it through a pharmacy in Switzerland, and then on the advice of Max, the doctor, on how to administer it, started the course.

Q. Did Dr. Testa -- Max Testa tell you how to administer the EPO?

A. As far as -- as far as what quantities and time frames, yes.

Q. How actually did you do it? Do you inject it? Is it by pill? What do you do?

A. It's an injectable. I think they come in like 2000 cc bottles. And it's basically just like a -- like a diabetic would, just underneath the skin, so it's a slow-releasing agent.

Q. When did you start the program? In connection with what race?

A. Tour Switzerland, which was approximately two to three weeks prior to the start of the Tour de France.

Q. How did it -- how did EPO affect you?

A. For me it -- it backfired.

Q. In what way?

A. I started going -- feeling worse and going backwards. My lack of knowledge and understanding of it and what it does to some people, I'm not saying all people, but to me it actually robbed energy, as far as -- you know, when you put yourself under immense physical strain. And this is trying to build blood within your system. It was pulling the -- the energy was pulled towards doing that and not actually being able to perform under -- under race conditions.

Q. Were you aware if anyone else was using EPO in connection with the Tour of Switzerland?

A. Well, it was just -- Frankie was suffering in the same circumstances as I was.

Q. Frankie Andreu?

A. Yes.

Q. Now, when you -- when you injected yourself with EPO, was anyone around, or did you do it in private?

A. That was something that was all done individually.

Q. How long did you take EPO for?

A. The course was -- I can't remember how long the box lasts, but the course -- I basically took it through the period of the Tour of Switzerland. It was done every second day. Tour Switzerland's 10 days. I stopped after eight days, because I was just going

backwards, and then went back to where I was staying, carried on with the admini -- adminis -- administering it on the sec -- every second day, prior to the tour.

After the prologue of the tour, I was basically done with what I had, or I had, perhaps, maybe one ampule left, but I -- I said, it's not working for me, and that's where I stopped administration of it.

Q. Did you take EPO in connection with the 1995 Tour de France, or had you finished by then?

A. The last administering for myself was after the prologue of the 1995 tour.

Q. Now, in connection with the 1995 Tour de France, were you present with any incidences with Mr. Armstrong that led you to believe that he was also using EPO?

A. On the second race day in the Alp -- in the Pyrenees, the way they tested -- checked -- or checked your hematocrit, which is your red cell count, was using -- was by using a centrifugal machine, which they had on board.

Q. Who -- who are you talking about? Who had this on board?

A. The doctor.

Q. Is this Dr. Testa?

A. Yes.

Q. And whose hematocrit level was he checking?

A. Because it can hold, actually, I think, up to eight or 10 samples in one go, we were checking them

all.

Q. Did this include you?

A. Yes.

Q. Did it include Mr. Armstrong?

A. Yes, it did.

Q. Were you in Dr. Testa's room, or where physically were you?

A. We were just in one of the rider's rooms. It may have been Testa's room. I mean, they're all the same.

Q. What was your hematocrit level?

A. I think I was around 46 or 40 -- yeah, 47.

Q. Do you remember what anyone else's level was?

A. I know I was the lowest, and every -- probably everyone else that tested was 50 to anywhere just above -- you know, above the 50 -- 50 percent range.

Q. What was Mr. Armstrong's, if you recall?

A. It was above 50, but, you know, I would only be taking a guess whether it was --

Q. And how do you know what everyone else's level was? Was it being announced, or could you see the test results?

A. Oh, it was -- you know, it's a little bit -- it was a -- it was being played like a little bit of a game on who's -- who was -- who was -- who was strong and who wasn't, if you know what I mean.

Q. And why were you testing hematocrit levels?

A. Killing time. It was a race day.

Q. Did you form any belief as to whether or not Mr. Armstrong was using EPO based on his hematocrit levels?

A. That's the only way you could come to that conclusion. There's no other way your hematocrit would be that high.

Q. Was there any discussion or any other incident in connection with the 1995 Tour de France that led you to believe Mr. Armstrong was using EPO?

A. Could you repeat that question?

Q. Sure.

You've described for us one incident in which you were involved testing hematocrit levels that led you to believe Mr. Armstrong was obviously using EPO.

Was there anything else that took place at the 1995 Tour de France that made you think or believe that Mr. Armstrong was using EPO?

A. No, not that I'm aware of.

Q. After the Tour de France in 1995, did you ever have any other discussions with Mr. Armstrong that led you to believe he was using EPO?

A. No.

Q. Did you discuss or have a conversation with Mr. Armstrong after the San Sebastian race in 1995?

A. Did I have a discussion with him?

Q. Yes.

A. No.

Q. Do you recall Mr. Armstrong ever telling you

that he was using something called DEPO, D-E-P-O?

They think that's short for like diphosphate, which is a strong cortisone that's available over the -- was -- well, whether it still is, I don't know.

Q. Based upon your participation on the Motorola team and the things you saw that you've recounted for us here today, do you have any doubt in your mind as to whether or not Mr. Armstrong used EPO or performance enhancing drugs during the 1995 time period?

A. I mean, you had to -- I mean, you had to -- you had to, to be riding at that level. And it's my opinion, you know, what we -- we all were in it together. We all did it, even though we didn't see it, ourselves administering it; but the results on the centri -- on the centrifuge spoke for themselves.

MR. TILLOTSON: Thank you, Mr. Swart.
Pass the witness.

EXAMINATION

BY MR. HERMAN:

Q. Mr. Swart, my name is Tim Herman. I represent Lance Armstrong and Tailwind Sports in this -- in this proceeding.

Can you tell me, Mr. Swart, how -- how long you met with David Walsh?

A. How long I met with him?

Q. Yes, sir.

A. Is this when he was writing the book?

Q. Yes, sir.

A. He flew to New Zealand. He was in New Zealand for probably -- he was actually over there during -- on a rugby trip, I believe. And he took time -- oh, no, sorry. He was actually at the World Cup in Australia, rugby -- World Cup rugby. And he took time out of his schedule there and flew to New Zealand to meet with me.

Q. To your knowledge, did Phil Taylor refer him to you?

A. Yes, he did.

Q. Okay. Can you tell me what sort of compensation you're receiving for your appearance here today?

A. What sort of compensation?

Q. Yes, sir.

A. I was always asked when I was -- to give evidence or if I might -- my appearance was required, that expenses would be taken care of, and that's all I've ever received, and I've asked for nothing more.

Q. All right. Well, when -- when you met with Mr. Walsh back in 2003 --

A. Uh-huh.

Q. -- how long a meeting was it, and where was it at?

A. It took place at my residence, and it was through the course of an evening, over four or five hours.

Q. Is that the only time you've met with

Mr. Walsh?

A. No, it's not.

Q. Okay. Can you tell me -- or describe to me -- that'd probably be the easiest way -- just describe to me the various meetings that you've had and where they occurred and so forth.

A. David happened to be in New Zealand last year on the World Cup rugby tour, which took place throughout New Zealand last year, and I happened to meet up with him there.

Q. Okay. Did you discuss this topic, that is, the Lance Armstrong topic?

A. The book was out. There was nothing to discuss.

Q. Okay. When did you first -- when were you first contacted, or when do you -- when did you first talk to anybody from SCA?

A. From SCA?

Q. Yes, sir.

A. Mr. -- I got a call, originally, from Mr. Bob Hamman on I would say it would have been -- I think it would have been nearly -- was it last year or this year?

Q. It would have been before --

A. No.

Q. -- October 22nd of 2004; I know that much, but I don't know.

A. No, it must have been last year, then, that I can recall.

Q. How long -- well, tell me about the -- tell me about the first call that you had.

What was the substance of the call?

A. Oh, that he -- he was from SC -- representing SCA Insurance about Lance Armstrong, and that they were investigating a matter, and if he could meet with me.

Q. And did he describe what matter that they were investigating?

A. I had -- I had already heard what the thing -- what it was about through -- through paper clippings, or whatever.

Q. Had you talked to David Walsh, I mean on the phone, about what SCA was doing?

A. I think David may have mentioned it to me, but it was only in brief, that I could be expecting that call.

Q. Walsh said that you should be expecting a call from these people who have this conflict, whatever it is, with Lance Armstrong?

A. Yeah, you may hear from them, you may not.

Q. Okay. How did Mr. Goodger get involved?

A. Who?

Q. Goodger, G-O-O-D-G-E-R, a lawyer in New Zealand. Is that your lawyer in New Zealand, Michael Goodger?

A. Never heard of him.

Q. Never heard of him.

Did you have a lawyer in New Zealand in

2004?

A. No, I didn't.

Q. Did Mr. Hamman contact you directly about his intention to come to New Zealand and talk to you?

A. That's correct.

Q. And can you recall how those arrangements were made? Did he -- he obviously called you a second time after the first initial call, I guess?

A. He responded by e-mail, told me his arrival date, whether I could recommend somewhere for him to stay. We replied, just give us a call. When we're in town, we'll meet up.

Q. So Mr. Hamman showed up. You all had dinner?

A. That's correct.

Q. And then you met the next day?

A. No. We discussed -- discussed it at night. He filled us in on what the situation was.

Q. You say he filled us in.

Who are you talking about?

A. Myself and my wife.

Q. Okay. All right. Go ahead. I'm sorry. I didn't mean to interrupt you.

A. And, basically, we departed ways that night, and that's the -- I haven't seen Bob until today.

Q. Did Mr. Hamman provide anything to you? Did he provide a copy of Walsh's book, for example?

A. I had already seen that.

Q. Where did you get those?

A. Sorry -- oh, I've got the French version.

Q. Oh, you've got the -- do you speak French -- do you read French and speak French?

A. A little bit.

Q. Did Mr. Hamman provide you with portions of the book in English?

A. No.

Q. Have you ever had portions of any of the book in English?

A. Only the extracts that are -- that I was to sign off on, on my -- which allocated to myself.

Q. That were provided to you by David Walsh?

A. That's correct.

Q. Okay. Did Mr. Hamman, or anybody with SCA, provide a -- an affidavit for you to sign?

A. Oh, yes, they did.

Q. Who did that?

A. Oh, sorry. Bob organized that. That was in New Zealand.

Q. Okay. So where did you -- did they send you a version of the affidavit to look at?

A. I -- it was pretty much an extract from the book, as far as my recollection is.

Q. Okay. Well, I'm just trying to figure out -- you signed an affidavit, and we got -- SCA gave us a copy of your affidavit, and I'm just wondering how you came to receive the affidavit, who prepared it, you know, where you signed it, that kind of stuff.

A. Oh, okay.

Q. So can you tell me?

A. Where I signed it?

Q. Yeah. Where you got it.

A. Where I got it?

Q. Yeah. Where did you get the affidavit to sign?

A. It was provided to -- for me by -- at -- where I went to sign it, it was there.

Q. Okay. Where did you go to sign it?

A. It was someplace in the city. I couldn't even tell you the name of it.

Q. In Auckland?

A. Yes.

Q. Mr. -- Mr. Armstrong, in 1992, was -- I mean, he was a kid; it was his first year as a pro?

A. I be -- I believe so.

Q. Okay. How many teams in the -- in this Triple Crown, this Pittsburgh, West Virginia, and Philadelphia race?

A. How many teams?

Q. Yes, sir.

A. You'd probably need to go and ask the race organizer. I didn't organize the event.

Q. But it was in the neighborhood of 20 teams, more or less, wasn't it not?

A. Probably, yeah.

Q. Okay. Who did Mr. Hegg ride for?

A. I believe it was Sabaron Montgomery.

Q. He wasn't -- he didn't ride for Coors Light?

A. No. Sorry, I would -- if it wasn't Sabaron

Montgomery, it was LA Sheriffs.

Q. Okay. Well, it -- the -- it wasn't Coors Light?

A. No, it wasn't Coors Light.

Q. Let me just ask you this: With respect to the West Virginia race, that didn't turn out any differently regardless of any agreement that you all might have -- might have made?

A. We'll never know.

Q. But you didn't have any plan to attack Armstrong, correct?

A. I didn't have the ability -- that's my -- that's based on me. I'm not talking for anybody else on the team here.

Q. Right. And you're certainly not talking for Mr. Engleman?

A. No.

Q. Okay. And who is Lynn Petijohn?

A. He was our director of sport team at Coors Light.

Q. Do you assert that Mr. Petijohn had no knowledge of this alleged arrangement?

A. I would assume that he wouldn't have had -- he would have -- if it was, it only came through what he heard through the grapevine.

Q. Okay. Let me read you this quote and see if you agree with it. Okay?

At the time -- that is, at the time of this West Virginia deal -- Mike Engleman was in second

in West Virginia, and he was getting tired. We didn't think he could beat Lance, so we agreed not to attack him so we could win team classification, and he could win the overall.

Is that a fair statement?

A. I believe that probably is, yes.

Q. Okay. Then Mr. Petijohn goes on: But when we got to Philadelphia, there was no deal, and our guys didn't race like there was a deal. On the ninth time up the Manayunk wall --

A. Uh-huh.

Q. Does that make sense to you? I may have --

A. Manayunk.

Q. Pardon me?

A. Manayunk.

Q. Manayunk?

A. Yeah.

Q. -- wall, Roberto Gaggioli --

Who is that?

A. That's another team member from Coors Light.

Q. From Coors Light?

A. Uh-huh.

Q. -- attacked Armstrong.

Do you remember that happening?

A. No.

Q. You don't dispute that it happened?

A. I don't dispute it, no.

Q. But Gaggioli came back to the car after and said, I hope Lance doesn't attack, I'm toast. But

Lance attacked on the last time up the wall, and there was nobody who could cover his move.

Will you agree with that?

A. I would agree with that.

Q. Petijohn says: I never saw any money change hands nor heard any -- heard any of the guys talk about it.

He was the director of the team?

A. Uh-huh.

Q. Okay. So are you saying it was just you and McKinley that were part of the decision not to attack Lance?

A. We didn't not -- we didn't say we didn't not attack him. I mean, we couldn't attack him. He was obviously, by far, superior, stronger.

Q. Okay. So he was -- he would have -- he would have won anyway, regardless of what you did?

A. But like I said, I'm only talking about myself. If someone had -- could go with Lance Armstrong, they would have -- they probably would have done -- I mean, second's still better than nothing, isn't it?

Q. Yeah. I guess my -- my -- my -- my question is whether Mr. Petijohn is right or whether you're right about how all this happened.

The result would have been the same, that is, the first place winner would have been the same?

A. That's correct. Well, that's my -- that's my take on it, yes.

Q. Sure. I mean, that's your opinion.

A. That's my opinion on it.

Q. And you're not asserting that -- assuming that there were 20 teams in the race, that you don't have any knowledge of any arrangement being made with 20 teams to back off so Mr. Armstrong could win?

A. No, not 20 teams. I've heard of other teams getting paid, but that's -- I can't confirm or can't affirm that.

Q. You don't really have any personal knowledge about that, right?

A. No.

Q. Now, let me ask you this: Is -- does -- on the -- in professional cycling, do teams, from time to time, talk to each other about tactics where -- for example, in your case, if Mr. Petijohn is right, that by not attacking and wearing people out, let's say, you were able to increase your chances to win the team classification -- does that happen from time to time?

A. Absolutely.

Q. And so, I mean, this wasn't the first time people had talked about not attacking in order to preserve a position for themselves?

A. No, it's not -- it wouldn't be the -- it wouldn't be the first time, and this probably wasn't the last time.

Q. Okay. Now, you told Mr. Walsh, didn't you, that while you could read between the lines maybe and that -- and that that -- but that Armstrong was just a

kid, and that Phil Anderson was kind of -- kind of ramrodded the idea that -- that, for whatever reason, it would be better if you all didn't attack.

Is that a fair statement or not?

Isn't that what you told Mr. Walsh, that Phil was the old hand?

A. Phil probably took it -- his -- was passing on his experience and saying, hey, this is how we can make an extra dollar or secure the extra dollars.

Q. Okay. When -- when you received -- you say you received this money, how much money did you receive?

A. Well, like I said, I think it was anywhere between 3 and 5. I don't -- I don't recall. I mean, as well -- we're talking, what, over 10 years ago now.

Q. Who received the money -- I mean, the \$50,000?

A. That, I can't remember. I -- don't quote me on it, but I think it was McKinley.

Q. Scott McKinley?

A. Yes.

Q. Okay. And how many riders shared in it?

A. Pretty much -- I mean, everyone who took part.

Q. Well, did --

A. But we had a different policy on our team.

Q. Who do you mean?

A. On Coors Light. I mean, different teams have different structures on how riders get paid, like

outside their normal base salary. Some teams split it certain ways. Ours was split different ways, being that some -- most of the our team was present at that race in the final, then we all got it; but we only had an 11- or 12-man squad.

Q. Did -- did Mr. Gaggioli share?

A. I would assume he would have, then, yeah.

Q. That was the same Gaggioli that attacked Armstrong in Philadelphia?

A. Uh-huh.

Q. Did you race any different in Philadelphia than you would have normally?

A. Not that I'm aware of.

Q. And did anyone else on Coors Light that you know of?

A. Not that I'm aware of.

Q. I mean, nobody pulled any punches. Everybody rode as they would have with or without a deal. You agree with that, don't you?

A. Well, I think you would have to ask everyone on a one-to-one basis --

Q. Okay. Well --

A. -- to see if they pulled their -- gave a hundred percent.

Q. And -- well, let me just ask you: Did you give a hundred percent --

A. I --

Q. -- of what you had?

A. What I had? I gave all I had.

Could I do anything about the situation?

No, I couldn't.

Q. All right. Thank you.

Now, you've been retired from cycling for 10 years now, I guess?

A. Correct.

Q. Have you been in the -- are you -- are you in the cycling business still?

A. Not anymore, no.

Q. I knew that you had had a background in cycle shops and that sort of thing.

You're not in that business anymore?

A. Not anymore.

Q. Okay. You're a fan now, or you're an observer?

A. I observe it from the sideline, correct.

Q. And you don't have any knowledge -- any personal knowledge -- I mean, you haven't been on the tour. You don't know anything about Mr. Armstrong's conduct after 1995.

That's a fair statement, don't you think?

A. That's correct.

Q. And particularly not between 2001 and 2004?

A. I don't -- if I don't know the person personally and on a one-to-one basis, then I'm an -- I don't feel I'm privileged to judge somebody on what -- on hearsay.

Q. So the answer to my question would be the same?

A. Correct.

Q. Okay. You've been quoted as saying, I think, that Lance Armstrong would dominate on a level playing field?

A. I think if you read the book, and, like I said to David when I -- when he -- when we were doing the interview, I said: If cycling was clean and everyone got to the start line naked, Lance Armstrong would still be a champion.

Q. Now let's talk about -- about this 1995 issue.

You left the Motorola -- you left cycling after that season, did you not, after the 1995 season?

A. I retired after 1995, yes.

Q. And it's true, is it not, that you never witnessed Lance Armstrong take any EPO?

A. I never witnessed any rider taking EPO.

Q. And you never witnessed Mr. Armstrong purchase any EPO?

A. Correct.

Q. You never observed any EPO in Mr. Armstrong's possession?

A. Not that I'm aware of, no.

Q. And you took EPO, and it was -- it had a negative rather than a positive impact on your performance; am I right?

A. Initially, yes.

Q. Did it -- but you only did it initially,

didn't you? I mean, you never -- you didn't stay on the EPO program?

A. No.

Q. And it -- the second person on this ride, Frankie Andreu, you're not -- if I were to ask you the same questions, you never saw Frankie Andreu administer or take any EPO or saw any in his possession or saw him purchase any; your answers would be the same, correct, as they were for Mr. Armstrong?

A. Correct.

Q. Although Mr. Andreu seemed to be faltering and sluggish and tired and unable to -- unable to perform with the same stamina or with the stamina that you would want; fair statement?

A. Uh-huh.

Q. Is '95 the year that -- was it Casterlini or --

A. Casatelli.

Q. Casatelli died?

A. Yes, it was.

Q. And he was a member of the Motorola team?

A. Yes, he was.

Q. And is that the year that Mr. Armstrong won a stage of the Tour de France?

A. Correct.

Q. And that was the day after Mr. Casatelli died?

A. I believe two days after, yeah.

Q. Well, the next competitive day, I guess, after he died?

A. Yes.

Q. And have you, in your professional cycling career, been around a more focused rider than Mr. Armstrong?

A. Have I been -- could you repeat that, please.

Q. Have you ever been a teammate of anyone more focused than Mr. Armstrong?

A. There's guys who -- who are focused just as much, but do it in a different way.

Q. Mr. Armstrong -- I think that you mentioned in -- in your interview with Mr. Walsh, perhaps in the book, that he -- Armstrong was an essentially undisciplined rider in the sense that he would -- on the mountain stages, he would not pace himself, whatever you call it in the -- in your jargon, that he would just blow people away, and that he was in a maturation process around -- in that '94-'95 time frame. Is that a fair statement?

A. What do you mean by that?

Q. Well, I think you -- you had mentioned to Mr. Walsh that he was transitioning from being a triathlete, you know, a short period before that, into being a road racer or a stage racer?

A. I think -- no, I believe, at that stage, he was already well equipped as a ra -- as a bike rider, not a triathlete.

Q. Okay.

A. You wouldn't have accomplished the results that he had to that stage, world champion, being a triathlete in that arena.

Q. When you had this conversation with Mr. Armstrong in 1995, where you and Mr. Andreu and Mr. Armstrong were on this ride, it was clear to you that the EPO issue was a -- was a new one for -- for at least the members of your team?

A. That's correct.

MR. HERMAN: I'll pass the witness.

Thank you.

I've got a story about Auckland when you finish.

MR. TILLOTSON: I have no further questions. Thank you for your time.

THE VIDEOGRAPHER: This concludes today's proceedings. The number of tapes used is one. We're off the record. The time is 4:11 p.m.

(Deposition adjourned at 4:11 p.m.)

I, STEPHEN SWART, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

STEPHEN SWART

THE STATE OF _____)

COUNTY OF _____)

Before me, _____, on this day personally appeared STEPHEN SWART, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2006.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

STATE OF TEXAS)

COUNTY OF DALLAS)

I, Dawn Workman Bounds, Certified Shorthand

Reporter, in and for the State of Texas, certify that the foregoing deposition of STEPHEN SWART was reported stenographically by me at the time and place indicated, said witness having been placed under oath by me, and that the deposition is a true record of the testimony given by the witness.

I further certify that I am neither counsel for nor related to any party in this cause and am not financially interested in its outcome.

Given under my hand on this the ____ day of _____, 2006.

Dawn Workman Bounds, Certified
Shorthand Reporter No. 6129
Firm Registration #312
Dickman Davenport, Inc.
1010 Two Turtle Creek Village
3838 Oak Lawn Avenue
Dallas, Texas 75219
(214) 855-5100 (800) 445-9548
e-mail: dew@dickmandavenport.com
My commission expires 12-31-07

Time used by each party:

Mr. Tillotson - 0:32

Mr. Herman - 0:27