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## Shutting Down the Pharmacy on Wheels: Will Lance Armstrong's Admission Impact the Practice of Doping in Professional Cycling?

Kristina Fretwell

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## Shutting Down the Pharmacy on Wheels: Will Lance Armstrong's Admission Impact the Practice of Doping in Professional Cycling?

### Abstract

Lance Armstrong was one of the sport's greatest heroes and his doping admission shook the American public to its core. Although professional cyclists are sanctioned for violating anti-doping rules on an almost regular basis, the investigation and lifetime ban of Lance Armstrong highlighted the serious problems facing the sport. Increased efforts to police drug use in cycling appear to be ineffective; however, as Armstrong's situation may reveal, private law-suits have the potential to serve as a new and additional deterrent to cheating in the future.

The aftermath of Armstrong's admission has led to bickering of the major regulatory agencies, leading the general public to question whether the sport will ever be clean. This Article explores the impact Armstrong's doping admission might have on the sport of professional cycling in the future, as well as the history of doping in cycling.

### Keywords

doping, cycling, lance armstrong, drug use, drugs

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*Article*

**Shutting Down the Pharmacy on  
Wheels: Will Lance Armstrong's  
Admission Impact the Practice of  
Doping in Professional Cycling?**

*Kristina Fretwell\**

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\* Kristina Fretwell received her J.D., *summa cum laude*, from California Western School of Law in December 2013. During law school she was a member of the Sports and Entertainment Law Society and served as a senior editor for the *California Western Law Review/International Law Journal*. She previously received her Bachelor of Arts, *cum laude*, in Political Science with a split minor in Philosophy and History from the University of Arizona in May 2001. Ms. Fretwell would like to thank her husband, Bob Fretwell, for introducing her to the sport of cycling and serving as an inspiration for this piece.

**Abstract**

Lance Armstrong was one of the sport's greatest heroes and his doping admission shook the American public to its core. Although professional cyclists are sanctioned for violating anti-doping rules on an almost regular basis, the investigation and lifetime ban of Lance Armstrong highlighted the serious problems facing the sport. Increased efforts to police drug use in cycling appear to be ineffective; however, as Armstrong's situation may reveal, private lawsuits have the potential to serve as a new and additional deterrent to cheating in the future.

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**INTRODUCTION**

After a doping scandal rocked the 1998 Tour de France, a leading expert on gene doping and drug testing commented that “[t]he Tour debacle has finally made it acceptable to say in public and without provocation what many have known for a long time, namely, that long-distance cycling has been the most consistently drug-soaked sport of the twentieth century.”<sup>1</sup> Although the regulatory landscape has changed dramatically since Hoberman uttered this statement fifteen years ago, doping continues to envelop the sport of professional cycling today. In fact, since 1995, only four winners of the Tour de France, cycling’s most famous race, have not become embroiled in controversies involving performance-enhancing drugs.<sup>2</sup>

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<sup>1</sup> John Hoberman, *A Pharmacy on Wheels – The Tour De France Doping Scandal*, MESO-RX (Nov. 15, 1998), <http://thinksteroids.com/articles/festina-tour-de-france-doping-scandal/>.

<sup>2</sup> See Ian Austen, *2010 Tour de France Winner Found Guilty of Doping*, N.Y. TIMES (Feb. 6, 2012), [http://www.nytimes.com/2012/02/07/sports/cycling/alberto-contador-found-guilty-of-doping.html?\\_r=0](http://www.nytimes.com/2012/02/07/sports/cycling/alberto-contador-found-guilty-of-doping.html?_r=0). Since 1995, Carlos Sastre, Cadel Evans, Bradley Wiggins, and Chris Froome are the only Tour de France winners who have not tested positive, admitted to the use of, or were sanctioned for the use of

In 2012 alone, the United States Anti-Doping Agency sanctioned seventeen American cyclists for the use of performance-enhancing substances.<sup>3</sup> One of the sanctioned cyclists was Lance Armstrong, the only individual to have won seven Tour de France titles in the history of the sport.<sup>4</sup> Shortly after being banned from professional cycling for life, Armstrong admitted using performance-enhancing substances throughout his entire professional career.<sup>5</sup> Not only did his admission highlight the crisis facing the sport, it caused tension among the major regulatory bodies in the world, including the International Cycling Union and the World Anti-Doping Agency, as they grappled with the aftermath.<sup>6</sup>

Although the international community has attempted to rid cycling of drug use through the enactment of new drug testing techniques and strict-liability enforcement of anti-doping rules,<sup>7</sup> the pres-

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performance-enhancing drugs. See Alan McLean et. al., *Top Finishers of the Tour de France Tainted by Doping*, N.Y. TIMES (Jan. 24, 2013),

<http://www.nytimes.com/interactive/2012/08/24/sports/top-finishers-of-the-tour-de-france-tainted-by-doping.html>; Daniel Benson, *No Positive Doping Tests at 2013 Tour de France*, CYCLINGNEWS (Aug. 20, 2013),

<http://www.cyclingnews.com/news/no-positive-doping-tests-at-2013-tour-de-france>.

<sup>3</sup> *Sanctions*, U.S. ANTI-DOPING AGENCY, <http://www.usada.org/sanctions/> (last visited Feb. 25, 2014).

<sup>4</sup> *Id.*; see also *Tour de France Fast Facts*, CNN (Dec. 6, 2013, 4:08 PM), <http://www.cnn.com/2013/06/05/world/europe/tour-de-france-fast-facts/>.

<sup>5</sup> *Lance Armstrong, Biography*, BIOGRAPHY CHANNEL, <http://www.biography.com/print/profile/lance-armstrong-9188901> (last visited Feb. 3, 2014).

<sup>6</sup> See discussion *infra* Part IV.A.

<sup>7</sup> See generally *World Anti-Doping Code*, WORLD ANTI-DOPING AGENCY, <http://www.wada-ama.org/en/World-Anti-Doping->

sure to break records and win races continues to entice athletes to engage in sophisticated doping programs. Despite efforts to police the sport, athletes continue to use performance-enhancing substances in alarming numbers, threatening cycling's credibility as a competitive sport.<sup>8</sup> Further, many athletes that have been suspended for anti-doping violations in the past continue to compete today, undermining the image that the international community is truly working to rid the sport of cheating.<sup>9</sup>

Shortly after he admitted using performance-enhancing substances throughout his career, Armstrong was sued by insurance companies and former sponsors.<sup>10</sup> Additionally, the United States Department of Justice joined a whistleblower lawsuit against Armstrong for defrauding the federal government.<sup>11</sup> This Article explores the history of doping in cycling, as well as the impact of Armstrong's admission on the sport. Although increased efforts to police drug use in cycling appear to be ineffective, as Armstrong's situation may reveal, private lawsuits have the potential to serve as a new and additional deterrent against cheating in the future.

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Program/Sports-and-Anti-Doping-Organizations/The-Code/ (last updated May 2011).

<sup>8</sup> See *Sanctions*, *supra* note 3.

<sup>9</sup> See discussion *infra* Part III.

<sup>10</sup> Michael O'Keeffe, *Lance Armstrong Faces Another Lawsuit as Acceptance Insurance Coming After the Disgraced Cyclist for \$3M Claiming Fraud & Breach of Contract*, N.Y. DAILY NEWS (Mar. 2, 2013, 11:49 AM), <http://www.nydailynews.com/sports/i-team/disgraced-lance-faces-lawsuit-fraud-article-1.1277096>.

<sup>11</sup> Juliet Macur, *Armstrong Facing Two More Lawsuits*, N.Y. TIMES (Mar. 1, 2013), <http://www.nytimes.com/2013/03/02/sports/cycling/lance-armstrong-is-facing-another-lawsuit.html>.

## I. THE HISTORY OF MODERN DOPING

The use of performance enhancing substances is not a new phenomenon. The history of modern doping can be traced back to the early nineteenth century when cyclists and other endurance athletes began using substances such as caffeine, cocaine, strychnine, and alcohol to complete competitive endeavors.<sup>12</sup> Athletes in ancient Greece were known to have used special diets and herb concoctions to gain a competitive edge while participating in the Olympic Games.<sup>13</sup> The first death attributed to doping occurred in the sport of cycling in 1896, when English cyclist Arthur Linton died due to ephedrine intake during a race from Boudreaux to Paris.<sup>14</sup> By the early 1920's, doping was prevalent in international sport; however it wasn't until 1928 that the International Association of Athletics Foundations first banned the use of stimulating substances.<sup>15</sup> The restrictions were largely ineffective, though, because doping tests were not performed.<sup>16</sup> In 1960, the death of Danish cyclist Knud Enemark Jensen during competition at the Olympic Games increased the pressure on sports authorities to institute drug test-

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<sup>12</sup> See *A Brief History of Anti-Doping*, WORLD ANTI-DOPING AGENCY, <http://www.wada-ama.org/en/About-WADA/History/A-Brief-History-of-Anti-Doping/> (last updated June 2010); see also Hoberman, *supra* note 1.

<sup>13</sup> *Id.*; *History of Doping*, TECHNISCHE UNIVERSITÄT MÜNCHEN, <http://www.doping-prevention.de/doping-in-general/history-of-doping.html> (last visited Feb. 2, 2014).

<sup>14</sup> *History of Doping*, *supra* note 13; Paul Cartmell, *Lance Armstrong Ban Part of Long History of Doping in Cycling*, YAHOO SPORTS (Aug. 24, 2012, 5:47 PM), <http://sports.yahoo.com/news/lance-armstrong-ban-part-long-history-doping-cycling-214700698.html>.

<sup>15</sup> *A Brief History of Anti-Doping*, *supra* note 12.

<sup>16</sup> *Id.*

ing.<sup>17</sup>

In 1966, the International Cycling Union (UCI) and the Fédération Internationale de Football Association (FIFA) introduced doping tests in their respective World Championships, and the next year the International Olympic Committee (IOC) established its Medical Commission and its first list of prohibited substances.<sup>18</sup> Despite these developments, another cyclist, Tom Simpson, died in 1967 during the Tour de France, due to the use of amphetamines and alcohol.<sup>19</sup> International Sport Federations continued to implement more stringent anti-doping measures throughout the following years; however, as doping procedures became more sophisticated, sports agencies struggled to find reliable testing methods.<sup>20</sup>

In 1998, the doping crisis in professional cycling reached new heights. Three days before the start of the Tour de France, one of the top teams in the world, Festina, was expelled after a team car was found to contain large quantities of doping products, including the banned blood-booster erythropoietin (EPO) and human growth hormone.<sup>21</sup> In response, the IOC convened the First World Conference on An-

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* See also *Tom Simpson Biography*, CYCLING INFO, <http://cyclinginfo.co.uk/cyclists/british/tom-simpson-biography/> (last visited Feb. 3, 2014).

<sup>20</sup> See *A Brief History of Anti-Doping*, *supra* note 12.

<sup>21</sup> See Robyn J. Rosen, *Breaking the Cycle: Balancing the Eradication of Doping From International Sport While Upholding the Rights of the Accused Athlete*, 25 ENT. & SPORTS LAW. 3, 4 (2007); see also *Festina Affair Casts Shadow on Tour de France*, DNA (July 3, 2008), [http://www.dnaindia.com/sport/report\\_festina-affair-casts-shadow-on-tour-de-france\\_1175462](http://www.dnaindia.com/sport/report_festina-affair-casts-shadow-on-tour-de-france_1175462).

ti-Doping in February 1999, and established the World Anti-Doping Agency (WADA) on November 10, 1999.<sup>22</sup>

### ***A. The World Anti-Doping Agency***

WADA is an independent international body, whose mission is to “promote health, fairness and equality for athletes worldwide by working to ensure harmonized, coordinated and effective anti-doping programs at the international level . . .”<sup>23</sup> To provide a framework for harmonized anti-doping policies, rules, and regulations, WADA adopted the World Anti-Doping Code (the “Code”) in January 2004.<sup>24</sup> The Code works in conjunction with five International Standards that govern technical and operational areas, and is comprised of the Prohibited List, Testing, Laboratories, Therapeutic Use Exemptions, and Protection of Privacy and Personal Information.<sup>25</sup> The Code takes a strict liability approach to doping violations: riders need not intend to enhance their own performance, or even ingest a banned substance, to receive sanctions.<sup>26</sup>

More than fifty nations, including the United

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<sup>22</sup> See *A Brief History of Anti-Doping*, *supra* note 12.

<sup>23</sup> Sir Craig Reedie, *President’s Welcome Message*, WORLD ANTI-DOPING AGENCY, <http://www.wada-ama.org/en/About-WADA/Presidents-Welcome-Message/> (last updated Jan. 2014).

<sup>24</sup> *World Anti-Doping Code*, *supra* note 7.

<sup>25</sup> *International Standards*, WORLD ANTI-DOPING AGENCY, <http://www.wada-ama.org/en/World-Anti-Doping-Program/Sports-and-Anti-Doping-Organizations/International-Standards/> (last updated Oct. 2009).

<sup>26</sup> See WORLD ANTI-DOPING CODE §§ 2.1.1 cmt., 2.2.2 cmt., 4.2.2 cmt. (World Anti-Doping Agency 2009), *available at* [http://www.wada-ama.org/Documents/World\\_Anti-Doping\\_Program/WADP-The-Code/WADA\\_Anti-Doping\\_CODE\\_2009\\_EN.pdf](http://www.wada-ama.org/Documents/World_Anti-Doping_Program/WADP-The-Code/WADA_Anti-Doping_CODE_2009_EN.pdf).

States, and 500 sports organizations, have signed the Code and adopted the rules and regulations established by WADA.<sup>27</sup> In 2004, cycling was the final Olympic sport to adopt the Code.<sup>28</sup> Code signatories must ensure that their own rules and policies are in compliance with the anti-doping principles articulated by the Code.<sup>29</sup>

### ***B. Implementation of the Biological Passport***

Traditional anti-doping efforts focused on direct detection of prohibited substances through the use of urine and blood tests.<sup>30</sup> As doping methods became more sophisticated, use of traditional analytical tests did not always detect the use of substances on an intermittent or low-dose basis, new substances, or modifications of prohibited substances.<sup>31</sup> WADA began researching different methods of detection after a dozen athletes were suspended from the 2006 Olympic Games for heightened hemoglobin levels.<sup>32</sup>

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<sup>27</sup> Rosen, *supra* note 21, at 5.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Questions & Answers on Athlete Biological Passport*, WORLD ANTI-DOPING AGENCY, <http://www.wada-ama.org/en/Resources/Q-and-A/Athlete-Biological-Passport/> (last updated Sept. 2011) (expand “What modules compose the Athlete Biological Passport (ABP)?”).

<sup>31</sup> *See id.* (expand “Does the ABP replace traditional doping control?”).

<sup>32</sup> Juliet Macur, *Cycling Union Takes Leap in Fight Against Doping*, N.Y. TIMES (Oct. 24, 2007), [http://www.nytimes.com/2007/10/24/sports/othersports/24cycling.html?\\_r=2&](http://www.nytimes.com/2007/10/24/sports/othersports/24cycling.html?_r=2&). Ahead of the 2007 Tour de France, Ivan Basso received a two-year suspension after confessing to attempted doping and team Astana fired German rider Matthias Kessler after his “B” sample confirmed a positive doping test from April of that same year. *Doping Incidents Ahead of and During 2007 Tour de France*, USA TODAY (July 28, 2007),

After a series of doping scandals nearly overtook the 2007 Tour de France, WADA, in conjunction with the UCI, held a two-day summit to discuss a new biological passport program.<sup>33</sup> The new program gathers information from riders through a series of blood tests to provide baseline levels for certain biological markers.<sup>34</sup> Variations in those levels would then be assessed for potential blood manipulation.<sup>35</sup> The UCI became the first International Sport Federation to introduce the biological passport program in 2008.<sup>36</sup>

### ***C. Disciplinary Process***

As cycling's International Federation, the organization that administers and promotes the sport, the International Cycling Union (UCI), has testing jurisdiction over all athletes who participate in its

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[http://usatoday30.usatoday.com/sports/cycling/2007-07-28-3813791501\\_x.htm](http://usatoday30.usatoday.com/sports/cycling/2007-07-28-3813791501_x.htm). During the 2007 Tour, Patrik Sinkewitz dropped out after testing positive for high levels of testosterone; Alexandre Vinokourov, along with team Astana, was forced out of the race after Vinokourov tested positive for a banned blood transfusion after his 13<sup>th</sup> stage time trial victory; Italian rider Cristian Moreni tested positive for testosterone and withdrew from the race, along with his entire Cofidis team; and the Dutch Rabobank team removed overall leader Michael Rasmussen for lying about his whereabouts before the Tour. *Id.*

<sup>33</sup> Macur, *Cycling Union Takes Leap in Fight Against Doping*, *supra* note 32.

<sup>34</sup> *Id.*; see *Information on the Biological Passport*, UNION CYCLISTE INTERNATIONALE (Dec. 12, 2007), <http://www.uci.ch/Modules/ENews/ENewsDetails.asp?MenuId=&id=NTQzOA>.

<sup>35</sup> See Macur, *Cycling Union Takes Leap in Fight Against Doping*, *supra* note 32; see also *Information on the Biological Passport*, *supra* note 34.

<sup>36</sup> *Information on the Biological Passport*, *supra* note 34.

events.<sup>37</sup> Additionally, as the national anti-doping organization for the Olympic Movement in the United States, the U.S. Anti-Doping Agency (USADA) has testing jurisdiction over all riders who are present in the U.S. or are members of sports organizations in the country.<sup>38</sup> If the UCI determines through its drug-testing program that a rider has committed an anti-doping violation, the UCI notifies the rider's National Federation and requests that it initiate disciplinary proceedings.<sup>39</sup> Notification is also sent to the rider, the rider's team, and WADA.<sup>40</sup>

If USADA decides to charge an athlete with an anti-doping rule violation, the athlete can accept USADA's recommended sanction or take the case to a hearing before arbitrators who are members of the American Arbitration Association and the Court of Arbitration for Sport ("AAA/CAS arbitrators").<sup>41</sup> The hearing panel is required to hear the case under the UCI's Anti-Doping rules<sup>42</sup> and must allow the UCI to provide its opinion and demand that a sanction be imposed.<sup>43</sup> Further, each party must have the right to be represented by a "qualified lawyer."<sup>44</sup>

The decision by the AAA/CAS arbitrators can

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<sup>37</sup> See *World Anti-Doping Code*, supra note 7.

<sup>38</sup> *Id.*

<sup>39</sup> UCI CYCLING REGULATIONS: ANTI-DOPING pt. 14, art. 234 (Int'l Cycling Union 2012), available at <http://www.uci.ch/Modules/BULLETIN/getObject.asp?MenuId=MTY2NjU&ObjTypeCode=FILE&type=FILE&id=NDC3MDk&LangId=1>.

<sup>40</sup> *Id.* art. 206.

<sup>41</sup> U.S. ANTI-DOPING AGENCY ATHLETE HANDBOOK 30 (effective Jan. 1, 2013 – Dec. 31, 2013), available at <http://www.usada.org/uploads/athletehandbook.pdf>.

<sup>42</sup> UCI CYCLING REGULATIONS: ANTI-DOPING pt. 14, art. 345.

<sup>43</sup> *Id.* art. 332.

<sup>44</sup> *Id.* art. 267.

be appealed by either party, WADA, or the UCI, to the Court of Arbitration for Sport,<sup>45</sup> however the decision by CAS is final and binding on all parties, and is not subject to further review.<sup>46</sup> USADA aims to provide a disciplinary process that is “fair to athletes” and “provides for a full evidentiary hearing before experienced, internationally recognized arbitrators.”<sup>47</sup>

## II. CONTINUED DOPING SCANDALS

Despite the adoption of the World Anti-Doping Code and the implementation of the Biological Passport program, doping scandals have continued to proliferate professional cycling. For instance, in 2011, thirty-three riders were sanctioned by the UCI for anti-doping rule violations.<sup>48</sup> Notably, many of the athletes implicated in previous doping scandals continue to compete today. Some of the most significant doping scandals that have occurred since the implementation of WADA are detailed below.

### A. *Operación Puerto*

After Jesus Manzano, a former professional cyclist, admitted to blood doping and use of performance enhancing substances in 2003 while a member of the Kelme cycling team, a large scale investi-

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<sup>45</sup> *Id.* art. 329.

<sup>46</sup> *Id.* art. 346.

<sup>47</sup> *Adjudication*, U.S. ANTI-DOPING AGENCY, <http://www.usada.org/adjudication/> (last visited Feb. 2, 2014).

<sup>48</sup> *Consequences Imposed on License-Holders as Result of an Anti-Doping Violation Under the UCI Anti-Doping Rules*, INT’L CYCLING UNION, <http://www.uci.ch/Modules/BUILTIN/getObject.asp?MenuId=MTU3Mjg&ObjTypeCode=FILE&type=FILE&id=Nzk5OTY&LangId=1> (last visited Feb. 2, 2014).

gation in 2006 lead to the implication of two team doctors for trafficking medicinal drugs and services as part of a sophisticated doping program administered to elite athletes for several years.<sup>49</sup> During the investigation, police recovered bags of blood and plasma,<sup>50</sup> refrigerators full of drugs,<sup>51</sup> administration schedules for some of the athletes being doped by the doctors,<sup>52</sup> calendars of when athletes planned to compete during the year,<sup>53</sup> and clinical trials in which blood parameters of riders were measured.<sup>54</sup> Additionally, investigators found documents implicating riders being doped by the doctors that corresponded with the prior doping suspension of those athletes, including Roberto Heras<sup>55</sup> and Isidoro Nozal,<sup>56</sup> whom were both suspended in 2005, and Tyler Hamilton<sup>57</sup> and Santiago Perez,<sup>58</sup> whom were suspended in 2004.

As a result of the investigation, several other elite riders were also implicated as participants in the doping program, including Jan Ullrich,<sup>59</sup> Oscar Sevilla,<sup>60</sup> Jorg Jaksche,<sup>61</sup> Michele Scarponi,<sup>62</sup> Allan

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<sup>49</sup> See *Appendix M to USADA's Reasoned Decision: Overview of Evidence in the Operación Puerto Doping Investigation*, U.S. ANTI-DOPING AGENCY 1, 1-2 (2006), <http://d3epuodzu3wuis.cloudfront.net/Operacion+Puerto+Overview.pdf>.

<sup>50</sup> *Id.* at 2.

<sup>51</sup> *Id.* at 3.

<sup>52</sup> *Id.* at 4.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 5-6.

<sup>56</sup> *Id.* at 6-7.

<sup>57</sup> *Id.* at 7-9.

<sup>58</sup> *Id.* at 9.

<sup>59</sup> *Id.* at 10.

<sup>60</sup> *Id.* at 10-11.

<sup>61</sup> *Id.* at 11-12.

Davis,<sup>63</sup> Alberto Contador,<sup>64</sup> Ivan Basso,<sup>65</sup> Santiago Botero,<sup>66</sup> Francisco Mancebo Perez,<sup>67</sup> and Alejandro Valverde.<sup>68</sup> To date, only six of the fifty-six riders implicated in the investigation have been suspended for their participation in Operación Puerto, one of whom had his suspension overturned on appeal, and several riders, including Alberto Contador, were cleared of links to the doping scandal.<sup>69</sup>

### ***B. Floyd Landis***

Floyd Landis began riding professionally in 2002 with the U.S. Postal Service Team.<sup>70</sup> In 2006, he won the Tour de France, securing his ultimate victory during Stage 17 of the race, when he “beat the field by nearly six minutes.”<sup>71</sup> Landis later tested positive for synthetic testosterone, was stripped of his title, and banned from cycling for two years.<sup>72</sup> Landis exhausted his options under the World Anti-

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<sup>62</sup> Id. at 12-13.

<sup>63</sup> Id. at 13.

<sup>64</sup> Id. at 13-14.

<sup>65</sup> Id. at 14.

<sup>66</sup> Id. at 14-16.

<sup>67</sup> Id. at 16-17.

<sup>68</sup> Id. at 17.

<sup>69</sup> See Matt Slater, *Spain's Operacion Puerto to Inflict More Embarrassment on Cycling*, BBC (Jan. 30, 2013), <http://www.bbc.co.uk/sport/0/cycling/21259759>. See also Tim Line of Operacion Puerto, CYCLING NEWS (April 30, 2013, 11:41 PM), <http://www.cyclingnews.com/features/time-line-of-operacion-puerto>.

<sup>70</sup> *Floyd Landis, Biography*, BIOGRAPHY CHANNEL, <http://www.biography.com/print/profile/floyd-landis-201313> (last visited Feb. 2, 2014).

<sup>71</sup> Id.

<sup>72</sup> Id.

Doping Code and appealed the case to CAS.<sup>73</sup> In an unprecedented decision, CAS ordered Landis to pay \$100,000 to USADA “as a contribution toward its costs in the CAS arbitration” because there was “no evidence of misconduct on the part [of] USADA in prosecuting the case.”<sup>74</sup> The panel concluded, “On the contrary, . . . if there was any litigation misconduct, it may be ascribed to the applicant.”<sup>75</sup>

Landis continued to deny using performance-enhancing substances until 2010, when he admitted to doping throughout his entire career, including during his 2006 Tour de France victory.<sup>76</sup> After his admission, Landis was hit with various lawsuits, including one related to donations he received to support his fight against the doping allegations.<sup>77</sup> Landis was eventually ordered to repay all donations received – nearly \$480,000.<sup>78</sup>

In 2010, Landis filed a whistleblower suit against his former teammate, Lance Armstrong, claiming that Armstrong defrauded the federal government by accepting sponsorship money to fund a U.S. Postal Service team fueled by performance-enhancing drugs.<sup>79</sup> Though the suit is under judicial

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<sup>73</sup> *Floyd Landis Loses CAS Appeal*, VELONEWS (July 4, 2008 5:29 PM), [http://velonews.competitor.com/2008/06/news/road/floyd-landis-loses-cas-appeal\\_79029](http://velonews.competitor.com/2008/06/news/road/floyd-landis-loses-cas-appeal_79029).

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* (internal quotations omitted).

<sup>76</sup> *Floyd Landis, Biography*, *supra* note 70.

<sup>77</sup> Frederick Dreier, *Floyd Landis Calls Pro Cycling ‘Organized Crime,’* USA TODAY (Feb. 13, 2013 4:46 PM), <http://www.usatoday.com/story/sports/cycling/2013/02/13/floyd-landis-pro-cycling-is-organized-crime/1916805/>.

<sup>78</sup> *Id.*

<sup>79</sup> Liz Clarke, *Floyd Landis Whistleblower Suit Targets More than Lance Armstrong*, WASH. POST (Jan. 17, 2013),

seal, Landis shared many of his allegations in news interviews with journalists and conversations with Travis Tygart, the head of USADA, and Jeff Novitzky, an official of the U.S. Food and Drug Administration (“FDA”) tasked with investigating steroid use in sports.<sup>80</sup> Much of the information Landis provided to USADA and the FDA became a part of the USADA document used to strip Armstrong of his seven Tour de France titles in 2012.<sup>81</sup>

### ***C. Danilo Di Luca***

Danilo Di Luca, an Italian cyclist, was accused of doping for many years and was suspended for three months during the off-season in 2007-2008 for his involvement in an Italian doping case.<sup>82</sup> In 2009, Di Luca tested positive for Continuous Erythropoiesis Receptor Activator (CERA), a form of EPO, twice during the Giro d’Italia and was suspended for two years by the Italian Olympic Committee’s anti-doping court.<sup>83</sup> His ban was reduced to nine months after he admitted using performance-enhancing substances and revealed his doping techniques to Italian police.<sup>84</sup> Di Luca made a comeback in 2011 and rode

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[http://articles.washingtonpost.com/2013-01-17/sports/36409945\\_1\\_tour-de-france-titles-whistleblower-suit-floyd-landis](http://articles.washingtonpost.com/2013-01-17/sports/36409945_1_tour-de-france-titles-whistleblower-suit-floyd-landis).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Di Luca Set to Ride for Free with One Year Katusha Deal*, CYCLING NEWS (Jan. 10, 2011, 9:44 AM),

<http://www.cyclingnews.com/news/di-luca-set-to-ride-for-free-with-one-year-katusha-deal>.

<sup>83</sup> *Id.*

<sup>84</sup> Stephen Farrand, *Di Luca Confesses to Doping Mistakes*, CYCLING NEWS (Dec. 22, 2010, 12:19 PM),

<http://www.cyclingnews.com/news/di-luca-confesses-to-doping-mistakes>.

with Russian team Katusha in 2011 and team Acqua & Sapone in 2012.<sup>85</sup> Shortly after signing an agreement to ride for Vini Fatini-Selle Italia, Di Luca, once again, tested positive for EPO, five days before the 2013 Giro d'Italia.<sup>86</sup> Di Luca was subsequently banned from cycling for life.<sup>87</sup>

#### ***D. Alberto Contador***

Alberto Contador, a three-time Tour de France Champion, tested positive for clenbuterol, a muscle building and weight-loss drug, during the 2010 Tour.<sup>88</sup> Contador claimed the positive test was the result of eating tainted meat, however he was suspended by the UCI, pending an investigation.<sup>89</sup> Subsequently, the Spanish Cycling Federation cleared Contador of any wrongdoing, but both WADA and the UCI appealed the decision to CAS.<sup>90</sup> CAS determined that Contador's claim of having eaten tainted meat was not substantiated.<sup>91</sup> As a result, Contador was ultimately suspended for two years and stripped of his 2010 Tour victory, in addition to his twelve

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<sup>85</sup> *Id.*; *Di Luca Confirms Acqua & Sapone for 2012*, CYCLING NEWS (Nov. 8, 2011, 9:50 AM), <http://www.cyclingnews.com/news/di-luca-confirms-acqua-and-sapone-for-2012>.

<sup>86</sup> Barry Ryan and Stephen Farrand, *Danilo Di Luca Positive for EPO*, CYCLING NEWS (May 24, 2013, 10:57 AM), <http://www.cyclingnews.com/news/danilo-di-luca-positive-for-epo>.

<sup>87</sup> *Danilo Di Luca, Ex-Giro d'Italia Winner, Gets Life Ban for Third Doping Offence*, GUARDIAN (Dec. 5, 2013, 11:12 AM), <http://www.theguardian.com/sport/2013/dec/05/giro-danilo-di-luca-life-ban>.

<sup>88</sup> Austen, *supra* note 2.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

other titles.<sup>92</sup> As noted above, Contador was also implicated in the Operación Puerto doping scandal in 2006, but was later cleared of any involvement.<sup>93</sup> After serving his suspension, Contador rejoined his former team, Saxo Bank, in 2012.<sup>94</sup>

### ***E. Frank Schleck***

Frank Schleck, who finished third in the 2011 Tour de France, was forced to drop out of the 2012 race five stages from the end for testing positive for the diuretic Xipamide.<sup>95</sup> Schleck maintained that he unintentionally consumed a contaminated product, however the Luxembourg Anti-Doping Agency suspended him from the sport for one year.<sup>96</sup> While the council could have suspended Schleck for two years under the UCI's strict liability anti-doping provisions, the council only imposed a twelve-month suspension, noting that Schleck unintentionally consumed the substance.<sup>97</sup> Schleck, WADA, or the UCI had the option to appeal the Luxembourg Anti-Doping Agency's decision, however, no appeal was filed and Schleck's suspension ended on July 13, 2013.<sup>98</sup> Schleck returned to cycling in January 2014,

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<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Contador Returns with Saxo Bank*, CYCLING NEWS (June 8, 2012, 1:44 PM), <http://www.cyclingnews.com/news/contador-returns-with-saxo-bank>.

<sup>95</sup> *Frank Schleck Given 1-Year Doping Ban*, USA TODAY (Jan. 30, 2013, 5:34 PM), <http://www.usatoday.com/story/sports/cycling/2013/01/30/frank-schleck-given-1-year-doping-sentence/1877333/>.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*; *Frank Schleck Set for July 14 Return to Racing*, CYCLING NEWS (April 4, 2013, 3:59 PM),

competing in the Tour Down Under in Australia.<sup>99</sup>

### ***F. Lance Armstrong***

Lance Armstrong, one of the sport's most infamous riders, won seven consecutive Tour de France titles after battling advanced testicular cancer.<sup>100</sup> Armstrong was faced with numerous doping allegations throughout his career, but in 2012, USADA brought formal charges against him.<sup>101</sup> Just as he had earlier allegations, Armstrong vehemently denied that he ever used performance-enhancing substances at any time during his professional cycling career.<sup>102</sup> On August 23, 2012, Armstrong announced that he would not continue to fight the USADA charges and the next day, USADA stripped all seven of Armstrong's Tour titles, in addition to other honors he had received from 1999 to 2005, and banned him from cycling for life.<sup>103</sup> In October 2012, USADA released the evidence it had gathered against Armstrong, including testimony from several of Armstrong's former teammates who claimed he

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<http://www.cyclingnews.com/news/frank-schleck-set-for-july-14-return-to-racing>.

<sup>99</sup> *Frank Schleck Arrives for Tour Down Under and Denies He is a Drug Cheat*, ABC NEWS (Jan. 13, 2014, 12:07 PM),

<http://www.abc.net.au/news/2014-01-13/schleck-27turns-page27-on-drug-ban/5197140>.

<sup>100</sup> *Lance Armstrong, Biography*, supra note 5. By the time he was diagnosed, Armstrong's cancer was in an advanced stage and had spread to his abdomen, lungs, lymph nodes, and brain. He was given a 65-85 percent chance of survival, which dropped to 40 percent after the tumors in his brain were discovered. The surgeries and chemotherapy were successful and he was declared cancer free in February 1997. *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

had not only used drugs, but was the ringleader for the team's doping efforts.<sup>104</sup> Though Armstrong disputed USADA's findings when they were released, he eventually admitted in January 2013, during an appearance on *The Oprah Winfrey Show*, that he used performance-enhancing substances throughout his career.<sup>105</sup>

After his admission, the U.S. Department of Justice decided to join the whistleblower lawsuit that Floyd Landis filed against Armstrong in 2010, contending he defrauded the government.<sup>106</sup> If Armstrong loses, he may be forced to pay the government up to \$90 million in damages.<sup>107</sup> Since his admission, he has also been hit with several other private lawsuits for the return of prize money, bonuses, and a settlement for a false libel claim from the *Times of London*.<sup>108</sup>

### III. THE FUTURE OF PROFESSIONAL CYCLING

While there have been multiple doping scandals in professional cycling since the establishment

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<sup>104</sup> *Id.* Six of the seven riders who provided testimony against Armstrong received six month suspensions for their participation in the doping program. *Sanctions*, U.S. ANTI-DOPING AGENCY, <http://www.usada.org/sanctions/> (last visited Mar. 28, 2013) (listing David Zabriskie, George Hincapie, Michael Barry, Tom Danielson, Levi Leipheimer, and Christian Vande Velde as recipients of a six month suspension, beginning on October 10, 2012).

<sup>105</sup> *Lance Armstrong, Biography*, *supra* note 5.

<sup>106</sup> Macur, *Armstrong Facing Two More Lawsuits*, *supra* note 11.

<sup>107</sup> *Id.*

<sup>108</sup> Michael O'Keeffe, *Lance Armstrong Faces Another Lawsuit as Acceptance Insurance Coming After the Disgraced Cyclist for \$3M Claiming Fraud & Breach of Contract*, N.Y. DAILY NEWS (Mar. 2, 2013, 11:49 AM), <http://www.nydailynews.com/sports/i-team/disgraced-lance-faces-lawsuit-fraud-article-1.1277096>.

of WADA in 2004, the Lance Armstrong admission is arguably the most high profile revelation of the drug problem embroiling the sport. The following is an examination of the response from the cycling industry and an analysis of the potential impact Armstrong's admission will have on the future of cycling.

### ***A. Reaction from the International Cycling Union***

Shortly after his doping admission, the UCI, cycling's International Federation, announced that it welcomed Armstrong's confession as a step in repairing the damage done to cycling and restoring confidence in the sport.<sup>109</sup> Additionally, the President of UCI, Pat McQuaid, said they would embrace Armstrong's participation in a truth and reconciliation process, something Armstrong suggested during his admission on *The Oprah Winfrey Show*.<sup>110</sup>

Despite this somewhat positive reaction, McQuaid did little to reassure the public that cycling could emerge from its drug-marred past. The USADA investigation contained allegations from Armstrong's former teammates that the UCI had covered up Armstrong's positive drug test from the Tour of Switzerland in 2001 in exchange for a donation of \$100,000.<sup>111</sup> While McQuaid denied ever cov-

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<sup>109</sup> Julien Pretot, *UCI Welcomes Armstrong's Truth Commission Offer*, REUTERS (Jan. 18, 2013, 3:46 AM), <http://www.reuters.com/article/2013/01/18/us-cycling-armstrong-uci-idUSBRE90H0BY20130118>.

<sup>110</sup> *Id.*

<sup>111</sup> Robin Scott-Elliot, *Cycling: UCI Rejects any Blame for 'Greatest Crisis' over Lance Armstrong, Texan Stripped of Tour Titles but McQuaid Claims Sport May Never Escape Influence of Doping*, INDEP. (Oct. 23, 2012), <http://www.independent.co.uk/sport/general/others/cycling-uci->

ering up positive drug tests in exchange for money, he “refused to rule out accepting future donations from riders to help combat doping, despite the clear conflict of interest.”<sup>112</sup> Further, while McQuaid maintains that he is and has always been committed to combating doping in the sport, when asked if he thought cycling would ever be free from doping, he responded, “That’s a very difficult question to answer. I’d probably, to be honest with you, would say no.”<sup>113</sup>

In December 2012, the UCI set up an independent commission to address allegations in the USADA report “concerning the complicity of the UCI and its officials in doping” and “the manner in which the UCI has conducted its anti-doping program.”<sup>114</sup> The UCI set up the commission, however, without consulting WADA or USADA, and ultimately, WADA decided not to take part at all.<sup>115</sup> In January 2013, the UCI disbanded the commission since “WADA and USADA refused to cooperate with the inquiry.”<sup>116</sup> Further, McQuaid said the UCI would move forward

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rejects-any-blame-for-greatest-crisis-over-lance-armstrong-8221930.html.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *UCI Disbands Independent Review Commission to Pursue Truth and Reconciliation*, VELONEWS (Jan. 29, 2013, 7:41 AM), [http://velonews.competitor.com/2013/01/news/uci-disbands-independent-review-commission\\_272944](http://velonews.competitor.com/2013/01/news/uci-disbands-independent-review-commission_272944) (quoting WADA’s press release) [hereinafter *UCI Independent Review Commission*]; Neal Rogers, *WADA chief contests UCI statements on review commission*, VELONEWS (Jan. 17, 2013), [http://velonews.competitor.com/2013/01/news/wada-chief-contests-uci-statements-on-review-commission\\_271761](http://velonews.competitor.com/2013/01/news/wada-chief-contests-uci-statements-on-review-commission_271761).

<sup>115</sup> Rogers, *supra* note 114.

<sup>116</sup> *UCI Independent Review Commission*, *supra* note 114 (quoting the UCI press release) (internal quotations omitted).

with a proposed program to give amnesty to riders who admit to doping offenses, even though such a program would breach the Code.<sup>117</sup> While the UCI renewed calls for establishing a truth and reconciliation commission in February 2013, WADA reiterated the process would have to be “under the management and control of the original independent commission”.<sup>118</sup> John Fahey, the President of WADA said that:

Only cycling can heal the problems cycling has, they're independent, they run their own sport, the same as any other sport in the world. If the members are prepared to continue to allow this lurching from one crisis to another then I guess we are going to continue to read about turmoil in that sport for some time yet. I would hope that within the root and file members of cycling there is recognition that it can't continue this way without there being some dire consequences down the track.<sup>119</sup>

Despite the serious problems plaguing the UCI's response to the current doping crisis, the UCI announced a stakeholder consultation exercise to take place February 21, 2013 through March 15, 2013 to gather stakeholder input on the future of cycling.<sup>120</sup> As part of this effort, the UCI is conducting

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<sup>117</sup> *Id.*

<sup>118</sup> John Mehaffey, *UCI Renews Call for Truth and Reconciliation Commission*, REUTERS, (Feb. 12, 2013, 8:42 AM), <http://www.reuters.com/article/2013/02/12/us-doping-wada-cycling-idUSBRE91B0V720130212>.

<sup>119</sup> *Id.*

<sup>120</sup> *Press Release: UCI Announces Stakeholder Consultation Details*, INT'L CYCLING UNION (Feb. 12, 2013),

a stakeholder survey and the results will be used to “help the UCI decide on changes and measures needed to improve the organisation, functioning and image of cycling.”<sup>121</sup>

Although it appears the UCI is taking a step in the right direction by conducting the stakeholder consultation exercise, its public reaction to the Armstrong admission and subsequent squabbling with WADA and USADA certainly does not send a positive message to the general public or the cycling community. Until it makes some serious efforts to repair the image of the sport, including working with WADA and USADA to enact policy changes, it is doubtful that athletes will make a concerted effort to stop the widespread use of performance-enhancing substances in professional cycling.

### ***B. Reaction from the United States Anti-Doping Agency***

Shortly after Armstrong’s admission, USADA called on Armstrong to testify, under oath, about the full extent of his doping activities.<sup>122</sup> Under WADA rules, if Armstrong were to cooperate with anti-doping officials, he would be eligible to have his life-

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<http://www.uci.ch/Modules/ENews/ENewsDetails.asp?id=OTA1Ng&MenuId=MTI2Mjc>.

<sup>121</sup> *Press Release: Stakeholder Consultations – Globalisation in the Spotlight*, INT’L CYCLING UNION (Mar. 15, 2013),

<http://www.uci.ch/Modules/ENews/ENewsDetails2011.asp?id=OTEwNw&MenuId=MTI2Mjc&LangId=1&BackLink=%2Ftemplates%2FUCI%2FUCI7%2Flayout.asp%3FMenuId%3DMTI2Mjc%26LangId%3D1>.

<sup>122</sup> Brent Schrottenboer, *Lance Armstrong Says No Again to USADA*, USA TODAY (Feb. 20, 2013, 9:36 PM),

<http://www.usatoday.com/story/sports/cycling/2013/02/20/lance-armstrong-usada-deadline-again/1931793/>.

time suspension reduced to eight years.<sup>123</sup> Fearful of criminal and civil liability, Armstrong refused USADA's offer.<sup>124</sup> Armstrong's attorney, Tim Herman, released a statement indicating that Armstrong is still willing to cooperate and provide full details about his doping activities, but he would prefer to do so through an independent international tribunal rather than USADA.<sup>125</sup> Because cycling is an "almost exclusively European sport," Armstrong's attorney stated "Lance will not participate in USADA's efforts to selectively conduct American prosecutions that only demonize selected individuals while failing to address the 95% of the sport over which USADA has no jurisdiction."<sup>126</sup> USADA CEO, Travis Tygart, expressed disappointment with Armstrong's decision but stated that USADA is "moving forward with our investigation without him and we will continue to work closely with WADA and other appropriate and responsible international authorities to fulfill our promise to clean athletes to protect their right to compete on a drug free playing field."<sup>127</sup>

Although USADA only has jurisdiction over American cyclists, its efforts to combat doping amongst its own athletes must be commended. While much of the sport is European in nature, the U.S. can serve as a model for a cleaner, and healthier, sport. Armstrong is arguably one of the greatest cycling heroes of all time and his sanctions have the potential to serve as an example for the future of the

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<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *USADA CEO Travis T. Tygart's Response to Lance Armstrong's Decision*, U.S. ANTI-DOPING AGENCY (Feb. 20, 2013), <http://www.usada.org/media/statement2202013>.

sport. There is no doubt that Armstrong is a talented cyclist, however, young riders must learn that cheating cannot and should not be tolerated.

### ***C. Reaction from Teams and Their Sponsors***

Professional cycling teams and team sponsors have been virtually silent in regard to the Armstrong admission; however, an examination of changes in team contracting practices or treatment of riders with doping allegations may offer an insight into their reactions. Unfortunately, all of the teams and sponsors contacted for this Article did not respond to repeated requests for current rider requirements, sample contracts, or treatment of riders with doping allegations.<sup>128</sup> Instead, this analysis will focus on sample contracts and general information made available by the UCI about rider requirements.

Through their Cycling Regulations, the UCI governs all world cycling races, including the Olympic Games.<sup>129</sup> In addition, the UCI directly manages all UCI Pro Teams and Professional

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<sup>128</sup> In the course of my research for this Article, I contacted the following teams: BMC Racing; Slipstream Sports (Team Garmin-Sharpe); Velocio Sports (Team Specialized-Lululemon); Team Astana; and Team Leopard Trek. Additionally, I contacted the following team sponsors: Cervélo; Trek; Giant; and Garmin. The only response I received was from Cervélo, whom commented they were unable to share sample contracts due to confidentiality reasons, and that I should contact one of the teams they sponsor directly for rider requirements.

<sup>129</sup> See generally UCI CYCLING REGULATIONS: PRELIMINARY PROVISIONS art. 1 (Int'l Cycling Union 2010), available at <http://www.uci.ch/Modules/BULLETIN/getObject.asp?MenuId=MTY2NjU&ObjTypeCode=FILE&type=FILE&id=34039&LangId=1>.

Continental Teams.<sup>130</sup> To participate in world races, teams must sign joint agreements that govern the working condition of riders with the UCI, and all riders must adhere to UCI's anti-doping regulations.<sup>131</sup> It should be noted that while contracts between individual riders and teams must contain certain provisions, riders are permitted to negotiate their own individual contracts with each team.<sup>132</sup> Additionally, while the anti-doping regulations provide for rider eligibility after anti-doping violations, they do not contain provisions regarding a rider's individual contract with his or her team after such an incident.<sup>133</sup> As noted above, it appears that

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<sup>130</sup> See UCI CYCLING REGULATIONS: ROAD RACING pt. 2 (Int'l Cycling Union 2013), *available at* <http://www.uci.ch/Modules/BUILTIN/getObject.asp?MenuId=MTY2NjU&ObjTypeCode=FILE&type=FILE&id=34028&LangId=1>. UCI Pro Teams are teams of at least twenty-three riders licensed to participate in UCI World Tour events. *Id.* at 92. Professional Continental Teams are teams of at least sixteen riders licensed to participate in road races open to Professional Continental Teams. *Id.* at 135.

<sup>131</sup> See UCI CYCLING REGULATIONS: JOINT AGREEMENT (Int'l Cycling Union 2013), *available at* <http://www.uci.ch/Modules/BUILTIN/getObject.asp?MenuId=MTY2NjU&ObjTypeCode=FILE&type=FILE&id=ODEzNzM&LangId=1>. See also UCI CYCLING REGULATIONS: ANTI-DOPING pt. 14 art. 2 (Int'l Cycling Union 2012), *available at* <http://www.uci.ch/Modules/BUILTIN/getObject.asp?MenuId=MTY2NjU&ObjTypeCode=FILE&type=FILE&id=Ndc3MDk&LangId=1>.

<sup>132</sup> See *generally* UCI CYCLING REGULATIONS: PRELIMINARY PROVISIONS (Int'l Cycling Union 2010), *available at* <http://www.uci.ch/Modules/BUILTIN/getObject.asp?MenuId=MTY2NjU&ObjTypeCode=FILE&type=FILE&id=34039&LangId=>

<sup>133</sup> See UCI CYCLING REGULATIONS: ANTI-DOPING pt. 14 (Int'l Cycling Union 2012), *available at* <http://www.uci.ch/Modules/BUILTIN/getObject.asp?MenuId=M>

many teams sever their contracts with individual riders suspended for doping allegations; however, most riders either re-join their old team or sign a contract with a new team to continue competing in world races.

Presumably, if anti-doping clauses were included in team and sponsor contracts, athletes who use performance-enhancing substances could be held liable for breach of contract or other financial sanctions. In fact, shortly after his admission, an insurance company that paid Armstrong's bonuses for winning races, as well as former sponsors sued Armstrong for unjust enrichment and breach of contract,<sup>134</sup> indicating that some contracts may in fact contain anti-doping clauses. Together with the whistleblower lawsuit against Armstrong for defrauding the federal government, he faces financial sanctions in excess of \$106 million, an amount that may seriously threaten his fortune.<sup>135</sup>

Further, if sponsors or teams were not as willing to re-sign athletes with previous doping suspensions, it could act as a deterrent in the future. A zero-tolerance policy, while harsh, can send a powerful message to other cyclists who are currently participating, or thinking about engaging, in doping programs.

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TY2NjU&ObjTypeCode=FILE&type=FILE&id=Ndc3MDk&LangId=1.

<sup>134</sup> Macur, *Armstrong Facing Two More Lawsuits*, *supra* note 11; see also Andrew Rafferty, *Justice Department: Lance Armstrong was 'Unjustly Enriched,'* NBC News (April 23, 2013, 5:49 PM), [http://usnews.nbcnews.com/\\_news/2013/04/23/17883573-justice-department-lance-armstrong-was-unjustly-enriched?lite](http://usnews.nbcnews.com/_news/2013/04/23/17883573-justice-department-lance-armstrong-was-unjustly-enriched?lite).

<sup>135</sup> *Id.*

#### ***D. Reaction From Current and Former Cyclists and Spectators***

To gauge the public perception of cycling after the Armstrong admission, eight current and former cyclists and spectators of the sport took part in a survey for this Article.<sup>136</sup> About half of the respondents felt disappointed by Armstrong's admission, with one commenting that drug use in cycling is "out of control"<sup>137</sup> and another stating that it "tarnished the legitimacy of cycling as a sport; a sort of 'who is it going to be tomorrow?' sensation."<sup>138</sup> Despite these feelings, half of the individuals surveyed think that cycling can be a clean sport, albeit with better enforcement and increased penalties. The overall consensus, however, is that the UCI is not working hard enough to prevent doping in cycling. All respondents agree that pressure to use performance enhancing substances is great for professional athletes; although, that same pressure does not exist on an amateur level, since amateur cyclists are not paid and are thus not under the same intense pressure to succeed. Further, the overwhelming consensus of survey respondents felt the practice of allowing athletes that have been sanctioned for doping violations in the past to continue to compete affects the perception that the sport is fair. Nearly all of the individuals surveyed believe that the lawsuits Armstrong is facing can be a good deterrent for doping in the future, with one stating that "it's good to know there will literally be no long-term benefit from cheating"<sup>139</sup> and another commenting about the visibility of a cyclist

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<sup>136</sup> Results of survey on file with the author.

<sup>137</sup> Interview with Josh Silva (Mar. 27, 2011).

<sup>138</sup> Interview with Charles Kao (Mar. 23, 2011).

<sup>139</sup> Interview with Kevin Wilde (Mar. 25, 2011).

and the risk of losing endorsement deals.<sup>140</sup>

While the survey results are not surprising, they do reveal skepticism about the legitimacy of cycling. Sadly, the Armstrong admission only highlighted the problems facing the sport and the lax attitude of the UCI's enforcement efforts. Fortunately, it does not appear that the public has lost faith in the ability of the sport to become drug free, but to do so, governmental entities and the private business community must come together to make cheating unattractive from all angles.

### CONCLUSION

The history of cycling reveals a sordid past of drug use and persistent cheating by many of the sport's elite athletes. The desire to win and push the boundaries of human ability to achieve impossible athletic endeavors is causing riders to seek out new and better ways to cheat the system. Continued doping scandals in cycling contributed, in large part, to the creation of an independent body dedicated to eradicating the use of performance-enhancing substances in all forms of international sport. Unfortunately, despite the creation of WADA and increased efforts to ensure a fair playing field, doping scandals continue to tarnish the image of professional cycling today.

While professional cyclists are sanctioned for violating anti-doping rules on an almost regular basis, the investigation and lifetime ban of Lance Armstrong, America's greatest cycling legend, highlighted the serious problems facing the sport. The aftermath of Armstrong's admission has led to bickering amongst the sport's regulatory entities, leading the

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<sup>140</sup> Interview with Josh Silva, *supra* note 137.

general public to question whether the sport will ever recover from the events that have marred its past.

The next few years will reveal whether cycling's regulatory groups can come together and enact a comprehensive plan to finally clean up one of the most "drug-soaked" sports in the history of the modern world. However, it will take something more than increased sanctions and improved testing techniques. Private organizations that participate in the industry must also contribute to cleaning up the sport. Professional teams should enact zero-tolerance policies and refuse to sign riders with a history of drug abuse.

Additionally, team sponsors should include stern anti-doping clauses in their contracts, so that riders will face large financial penalties for cheating. Perhaps cyclists will think twice about using performance-enhancing substances if their financial futures are put in serious jeopardy. The outcome of the many private lawsuits facing Lance Armstrong may prove to the cycling community that financial sanctions are a powerful deterrent. Maybe then, the industry will finally come together and work to shut down the "pharmacy on wheels."