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**BEFORE THE AMERICAN ARBITRATION
ASSOCIATION**

North American Court of Arbitration for Sport Panel

USADA vs. Justin Gatlin

AAA No. 30 190 00170 07

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TRANSCRIPT OF PROCEEDINGS

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American Arbitration Association Office

2200 Century Parkway, Suite 300

Atlanta, Georgia

July 30 – August 1, 2007

Transcript provided by:

RESLING SPORTSCRIPT

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BEFORE THE AMERICAN ARBITRATION ASSOCIATION
 North American Court Of Arbitration For Sport Panel

 HEARING HELD July 30, 31, August 1, 2007
 AAA No. 30 190 00170 07

 UNITED STATES ANTI-DOPING AGENCY,
 Claimant,
 vs.
 JUSTIN GATLIN,
 Respondent.

 PURSUANT TO NOTICE, the above arbitration hearing was held before CAS, pursuant to Order, at the American Arbitration Association, 2200 Century Parkway, Suite 300, Atlanta, Georgia, July 30, 31, 2007, commencing at 10:00 a.m., before Debra K. Resling, RMR, Certified Realtime Reporter and Notary Public; the telephonic hearing was held on August 1, 2007, before Stephanie Ostdahl, RPR and Notary Public.

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1 APPEARANCES
 2 MR. WILLIAM BOCK, III, Attorney at Law, from the
 3 Law Firm of Kroger, Gardis & Regis, LLP, 111 Monument
 4 Circle, Suite 900, Indianapolis, IN 46205, appeared
 5 on behalf of U.S. Anti-doping Agency.
 6 MR. TRAVIS TYGART, Attorney at Law, General
 7 Counsel, USADA, 1330 Quail Lake Loop Circle, Suite
 8 260, Colorado Springs, CO 80906, appeared on behalf of
 9 U.S. Anti-doping Agency.
 10 MR. JOHN P. COLLINS, Attorney at Law, from the
 11 Law Firm of Collins & Collins, 8 South Michigan
 12 Avenue, Suite 1414, Chicago, IL 60603, appeared on
 13 behalf of Justin Gatlin.
 14
 15 Also Present: Justin Gatlin and Mr. Gatlin.
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1 CAS Panel
 2
 3 MR. EDWARD T. COLBERT, Attorney at Law, from the
 4 Law Firm of Kenyon & Kenyon, 1500 K. Street NW, Suite
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1 What I was thinking, just to cover them up
 2 front, was that one, we already did the
 3 witnesses being out. Two, Travis and I have
 4 already talked, there are a couple of witnesses
 5 that have to be on phone. Some are on the West
 6 Coast. Some are on the Central time zone.
 7 We're going to try to juggle those, to the
 8 extent we can. We have three witnesses here --
 9 four witnesses here. Justin is going to be a
 10 witness. Terri Blankenship, Renaldo Nehemiah,
 11 Jeanette Gatlin. We do not plan on calling
 12 Randall Evans.
 13 MR. COLBERT: So he will not be
 14 called at all?
 15 MR. COLLINS: We are not calling him.
 16 MR. TYGART: I guess if we want to
 17 discuss that now on Randall. As of Thursday of
 18 last week, it was our understanding he would be
 19 here live, and we obviously wanted at that point
 20 and still want today, the opportunity to examine
 21 him. We heard Friday for the first time that
 22 he's not going to be made available. We sent an
 23 e-mail Saturday to Mr. Collins -- yesterday to
 24 Mr. Collins -- to have him available if at all
 25 possible. We would like the opportunity to

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1 (Commencing at 10:00 a.m.)
 2 MR. COLBERT: Are parties both
 3 ready?
 4 MR. COLLINS: Yes.
 5 MR. COLBERT: Mrs. Resling, would
 6 you please swear in the witness?
 7 MR. COLLINS: We're going to have
 8 opening?
 9 MR. COLBERT: Oh, I thought you guys
 10 had waived opening.
 11 MR. TYGART: Just very brief remarks
 12 from us.
 13 MR. COLLINS: I have a few remarks.
 14 Do you want to go over any housekeeping
 15 beforehand?
 16 MR. TYGART: The only thing I have is
 17 a second stipulation that was entered by the
 18 parties that we have copies of for the panel
 19 that I will pass out now.
 20 MR. COLBERT: That would be good,
 21 thank you.
 22 Do you have any other housekeeping
 23 matters? I think it's a little more than
 24 housekeeping.
 25 MR. COLLINS: I wasn't thinking that.

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1 examine him.
 2 MR. COLBERT: Let me just ask a
 3 question then. Looking at United States -- I
 4 don't know the designation of witnesses which is
 5 -- we've got, you don't list --
 6 MR. TYGART: Yeah, we named all
 7 witnesses that were designated by Mr. Collins.
 8 MR. COLLINS: Yeah.
 9 MR. COLBERT: Right, but those are
 10 witnesses presented by Mr. Gatlin and if Mr.
 11 Gatlin hasn't produced a witness here -- have
 12 you made arrangements to have Mr. Evans or have
 13 Mr. Collins have Mr. Evans --
 14 MR. TYGART: He designated Mr. Evans
 15 on his witness disclosure, and as of Thursday,
 16 he was calling him. We found out this Friday
 17 that he wasn't calling him, and have asked for
 18 him to be made available.
 19 MR. COLBERT: The question I've got
 20 is you are asking Mr. Collins to make Mr. Evans
 21 available.
 22 MR. COLLINS: My response would be, I
 23 can give him his telephone number, but I can't
 24 make him show up. I'm not his lawyer. If he
 25 wants to do it, he will do it; if he doesn't

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1 want to do it, he doesn't want to do it.
 2 MR. TYGART: Yeah, at a minimum, we
 3 would appreciate his telephone number. He is a
 4 former assistant coach.
 5 MR. COLLINS: He also though --
 6 there's been allegations against him. I know he
 7 was called into the grand jury. I think he has
 8 an attorney that represented him that went to
 9 the grand jury.
 10 MR. TYGART: Well, if you can provide
 11 any of those numbers, that would be, one step we
 12 could take to attempt to reach out to him.
 13 MR. COLLINS: I have a cell number
 14 for him.
 15 MR. COLBERT: You want to do it
 16 right now?
 17 MR. COLLINS: If you want, I will
 18 give it to him. I have not talked to him. I
 19 didn't get his e-mail until about 10 or 11:00
 20 last night; 919-255-0875.
 21 MR. TYGART: Make sure I got it,
 22 John. 919-255-0875.
 23 MR. COLBERT: So if I understand
 24 you're going to have Mr. Gatlin, Renaldo
 25 Nehemiah, Jeanette Gatlin, Terri Blankenship to

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1 testify live.
 2 MR. COLLINS: Right.
 3 MR. COLBERT: You are not going to
 4 call Mr. Evans, and that leaves Dr. David Black
 5 and Jeff Novitzky, two potential by phone?
 6 MR. COLLINS: Right.
 7 MR. COLBERT: And they will
 8 definitely be called by phone.
 9 MR. COLLINS: Yes.
 10 MR. COLBERT: So as long as we are
 11 doing that, let me ask you, Mr. Tygart. You had
 12 indicated that you weren't sure who you were
 13 going to call, either Dr. Shackleton, or
 14 Dr. Geyer, so I'll go through the list. Is
 15 Dr. Cedric Shackleton going to testify?
 16 MR. TYGART: Again, depending on what
 17 the case is that comes in, I would expect he
 18 would testify. He would be by telephone. And
 19 he's on the West Coast as well, so, late this
 20 afternoon, or some reasonable time for him in
 21 the morning would be fine.
 22 MR. COLBERT: What about
 23 Dr. Bowers?
 24 MR. TYGART: Unfortunately
 25 Dr. Bowers' father passed away yesterday, and

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1 he's not -- he was going to be here live, but
 2 he's not going to be here live.
 3 MR. COLBERT: Will he testify by
 4 phone?
 5 MR. TYGART: He will, just depending
 6 on the schedule with his dad, yeah, and again,
 7 the evidence that comes in, whether or not we
 8 will have him.
 9 MR. COLBERT: And Hans Geyer, will
 10 he be --
 11 MR. TYGART: I don't anticipate we
 12 will be calling Hans Geyer.
 13 MR. COLBERT: Probably not calling
 14 him, okay. Kate Mittlestadt.
 15 MR. TYGART: We will not be calling
 16 her, in lieu of the stipulation that I just
 17 handed you all, and I think, the same goes for
 18 the next witness Michelle Collins, in lieu of
 19 the stipulation that we just entered, we don't
 20 feel the need at this point to call either one
 21 of them.
 22 MR. COLBERT: And then interestingly
 23 enough, this is the question I have. Jeff
 24 Novitzky has been listed, unlike Mr. Evans, both
 25 of you specifically identified Mr. Novitzky to

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1 testify. It sounds like you are both calling
 2 him. You intend to call him twice, or have him
 3 testify once, you know, for both of you? I
 4 don't know why both of you called the same
 5 witness, quite frankly.
 6 Normally in the case, you would
 7 decide to put the witness on, unless you agree
 8 that you, because you have an issue with terms
 9 of cross-examination, scope of examination,
 10 whether you're going to go beyond that. Have
 11 you talked about that?
 12 MR. TYGART: From our end, we named
 13 him simply because they did, and I think he's
 14 important to the overall facts of the case, and
 15 the issues before the panel. We put him on
 16 there to make it absolutely clear that we have
 17 no intent to cross-examine Agent Novitzky,
 18 because I think there will be areas of his
 19 testimony that he's not going to be able to
 20 testify about, that, you know, some lawyers may
 21 want to try to impeach him with or go after him,
 22 on some of those facts, and we just have no
 23 intent to do that, which is why we named him as
 24 someone we just anticipate to have from a
 25 direct, his direct testimony.

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<p>1 MR. COLBERT: So you don't intend to</p> <p>2 cross-examine Mr. Novitzky?</p> <p>3 MR. TYGART: We may ask him</p> <p>4 questions, but if he says he can't answer a</p> <p>5 question, that's fine with us.</p> <p>6 MR. BOCK: If John asks him a</p> <p>7 question first, we may follow up with questions.</p> <p>8 MR. COLBERT: But other than that,</p> <p>9 you don't intend to then separately call him for</p> <p>10 some other purpose in your case.</p> <p>11 MR. TYGART: No.</p> <p>12 MR. COLLINS: Right, and just on</p> <p>13 Novitzky, we should put out, that he is going to</p> <p>14 be an interesting witness to call, and I have to</p> <p>15 be careful what I ask him, because Justin</p> <p>16 cooperated in a grand jury investigation which</p> <p>17 is a pending indictment, and the grand jury</p> <p>18 materials haven't been released, so there's</p> <p>19 going to be some limitations on what he can</p> <p>20 answer, and when he does testify, it's my</p> <p>21 understanding, there's going to be to two AUSAs</p> <p>22 from the San Francisco office on the phone.</p> <p>23 MR. TYGART: That was only our point.</p> <p>24 We are going to ask him questions, but we have</p> <p>25 no desire to investigate other areas that he's</p>	<p>1 MR. COLBERT: You have got him on</p> <p>2 your list.</p> <p>3 MR. TYGART: Again, we listed him,</p> <p>4 because we thought it was a noticeable absence</p> <p>5 on their sheet, witness list that they didn't</p> <p>6 list him. He's agreed to be available by</p> <p>7 telephone.</p> <p>8 MR. COLBERT: You have got him</p> <p>9 listed as in person.</p> <p>10 MR. TYGART: I found out yesterday,</p> <p>11 due to some health concerns, he's not going to</p> <p>12 be able to travel. He's also on the West Coast</p> <p>13 in Oregon. I don't know that we need to call</p> <p>14 him in our case. I listed him, because I</p> <p>15 thought it was somebody that was relevant for</p> <p>16 Mr. Collins or the panel, and he's agreed to</p> <p>17 make himself available. I will defer to</p> <p>18 Mr. Collins, if he wants to call him, and we</p> <p>19 would reserve the option.</p> <p>20 MR. COLLINS: We certainly have a</p> <p>21 number of questions we want to ask him, and</p> <p>22 prior to our filing our witness list, we had</p> <p>23 been informed by Mr. Whetstine that he was</p> <p>24 talking to USADA, and that USADA indicated that</p> <p>25 they would be calling him.</p>
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<p>1 not allowed to testify about.</p> <p>2 MR. COLLINS: If I seem even more</p> <p>3 inarticulate than usual, it's because I'm --</p> <p>4 MR. COLBERT: I understand. That's</p> <p>5 one of the questions I had too, had his agency,</p> <p>6 et cetera, been notified in sufficient time they</p> <p>7 could make arrangements? Apparently they have.</p> <p>8 MR. COLLINS: Yes. We will have to</p> <p>9 figure out how the conference call works for</p> <p>10 him. We will call Jeff. The AUSAs in San</p> <p>11 Francisco can't do it until after 1:00 or after</p> <p>12 their time, so it would be 4:00 our time. So</p> <p>13 we're going to try and I think it makes sense,</p> <p>14 whatever we're doing to try to call him at that</p> <p>15 time, because I don't know how late we plan on</p> <p>16 going today, but it's going to be very, you</p> <p>17 know, obviously, he's a critical witness, and we</p> <p>18 want to do it -- and he's got multiple people to</p> <p>19 organize.</p> <p>20 MR. COLBERT: So basically 4 p.m. or</p> <p>21 later.</p> <p>22 MR. COLLINS: Yeah.</p> <p>23 MR. COLBERT: And then Chris</p> <p>24 Whetstine, did I pronounce that correctly?</p> <p>25 MR. TYGART: I think that's right.</p>	<p>1 So we didn't put him on our list</p> <p>2 based on that. We're disappointed to learn</p> <p>3 today that he's not going to be here, because we</p> <p>4 do view him as a hostile witness or adverse</p> <p>5 witness, and our questions would be in the</p> <p>6 nature of cross-examination, which we would have</p> <p>7 really appreciated for the panel would have had</p> <p>8 the opportunity to see his demeanor. I think</p> <p>9 he's the only witness that's going to be of any</p> <p>10 real contention. I don't know how you plan on</p> <p>11 crossing ours, but our scientists are just going</p> <p>12 to be experts, so that is what it is. I don't</p> <p>13 think there's anything we can do.</p> <p>14 MR. COLBERT: You are not going to be</p> <p>15 calling Mr. Whetstine in your case in chief?</p> <p>16 You are going to wait to cross him?</p> <p>17 MR. COLLINS: If he doesn't call him,</p> <p>18 then I would call him, but request that it be a</p> <p>19 hostile witness so I can ask questions.</p> <p>20 MR. COLBERT: It's a little unusual,</p> <p>21 the circumstances here are a little unusual. I</p> <p>22 would suggest that we don't do this, in that,</p> <p>23 normally, we, we would be hearing from USADA</p> <p>24 first, and we're not doing that because of the</p> <p>25 stipulations you entered into, so, which means,</p>

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1 I don't know how you can make a determination as
 2 to whether to call Mr. Whetstine or not based on
 3 whether USADA calls him. You are essentially
 4 looking for like a surrebuttal kind of an
 5 ability to call him after USADA puts their reply
 6 case on, because they have got a rebuttal. Your
 7 case is a rebuttal case, not a case in chief,
 8 and so you are looking for a sur-reply,
 9 essentially.

10 MR. COLLINS: Right, he indicated he
 11 would be uncooperative and wouldn't do it when
 12 we tried to call him. That's how we did it to
 13 try to resolve it, just as you have seen Travis'
 14 sort of with his list. We put people on there
 15 to try to make it happen. If we have to call
 16 him, we will call him and consider him an
 17 adverse witness, if you want to do it that way.

18 MR. COLBERT: It's not how I want to
 19 do it. I'm just trying to think how we will do
 20 it. Let me just postulate the following: You
 21 don't call him in your case in chief, and
 22 Mr. Tygart doesn't call him in his case in
 23 rebuttal, he hasn't been called, there's nobody
 24 to cross-examine.

25 MR. COLLINS: And I understand.

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1 MR. COLBERT: And then you want to
 2 call Mr. Whetstine, and you don't have him on
 3 your list, unless there's an objection there,
 4 but what basis would we put him on? I just want
 5 to make sure we all understand how this is going
 6 to happen.

7 MR. COLLINS: I would assume what's
 8 going to happen at that point, is that once we
 9 run through our list of witnesses, we will ask
 10 them if they would plan to call him at all. If
 11 they're not going to do, then before I would
 12 rest my case, I'd say I would call
 13 Mr. Whetstine.

14 MR. BOCK: Why don't you just call
 15 him, John? The whole factual scenario revolves
 16 around him and a couple of other people. Just
 17 call him in your case.

18 MR. COLLINS: This just happened this
 19 morning. I would have to discuss how we want to
 20 do it, because we have the burden of proof. If
 21 we -- there may be tactical decisions; if he's
 22 not being called at all, maybe we don't need to
 23 call them.

24 MR. COLBERT: You don't have to tell
 25 us until you rest your case.

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1 MR. CAMPBELL: Where is he located;
 2 in Oregon, you said?
 3 MR. COLLINS: Eugene or the Eugene
 4 area.
 5 MR. TYGART: I'm not exactly sure,
 6 just Oregon, is all I know. Is it Eugene?
 7 MR. COLBERT: I'm assuming somebody
 8 has his telephone number.
 9 MR. TYGART: I have his telephone
 10 number.
 11 MR. COLBERT: Do you have a set time
 12 for him to be called?
 13 MR. TYGART: I spoke to his lawyer
 14 yesterday. His lawyer would like to be on the
 15 phone as well. His lawyer said in the afternoon
 16 tomorrow, which is today, so late afternoon his
 17 time.
 18 MR. COLBERT: Late his afternoon, so
 19 anytime 3:00 on, our time?
 20 MR. TYGART: I think that's fair.
 21 MR. COLLINS: I anticipated that he
 22 would be called tomorrow, because I figured our
 23 case would take all of today. So that does put
 24 me in a little bit of a time position for
 25 preparation in what I have done to ask him his

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1 questions.
 2 MR. COLBERT: Let me just ask.
 3 MR. COLLINS: I request that he be
 4 called in the morning, if we're going to call
 5 him. Because I think we're going to be -- by
 6 the time we have Novitzky at 4:00, unless we're
 7 going to really late tonight, it's going to
 8 be -- it's going to be tough.

9 MR. TYGART: It will be tough for his
 10 lawyer, but during one of our breaks this
 11 morning, I will see if there's any way we can do
 12 it tomorrow. Our interest obviously is just to
 13 move as rapidly as possible, fairly as possible.
 14 But to have it concluded tomorrow.

15 MR. COLBERT: You guys can talk
 16 about it and let us know. And the last thing is
 17 "other USADA witnesses." I was taking that
 18 there aren't any -- you say you reserve the
 19 right, but in light of the stipulation, do you
 20 anticipate any unknown witnesses?
 21 MR. TYGART: I don't believe so.
 22 MR. CAMPBELL: Just going through the
 23 list.
 24 MR. COLBERT: I'm just going through
 25 the list to see who they're going to call; see

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1 who they're not going to call.
 2 MR. COLLINS: Potentially, you are
 3 calling no witnesses?
 4 MR. BOCK: Shackleton and Bowers.
 5 MR. COLBERT: Maybe Bowers, maybe not
 6 Bowers. We're talking about Shackleton.
 7 MR. BOCK: It's possible we wouldn't
 8 call any witnesses, but those are the two.
 9 MR. TYGART: Those are the most
 10 likely, that we will call those.
 11 MR. COLBERT: Okay.
 12 MR. COLLINS: The only other
 13 housekeeping question I had, was obviously, we
 14 have submitted our briefs, and we both submitted
 15 extensive exhibits with our briefs, and I'm
 16 assuming all of those are in the record for the
 17 hearing, because I wasn't planning on --
 18 MR. TYGART: We're fine admitting
 19 what you have submitted, if there's any argument
 20 about the way --
 21 MR. COLBERT: Is there any objection
 22 to the admission of the other party's exhibits?
 23 MR. TYGART: From our end, no. We
 24 reserve the right to argue the weight of them if
 25 that's appropriate.

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1 MR. COLLINS: Now, a lot of exhibits
 2 are legal precedent, and that sort of thing
 3 which aren't exhibits. There's not evidence --
 4 MR. COLLINS: But also, for example,
 5 there's one that came in Friday, that the panel
 6 requested, and I assume everyone got it, and
 7 that's already in. I just need to know do I
 8 need to start asking witnesses, do you recognize
 9 this or that? And showing exhibits? I haven't
 10 done --
 11 MR. BOCK: Authenticating documents.
 12 MR. COLBERT: Let me back up for a
 13 minute. Neither party has put the longitudinal
 14 steroid study on the record or submitted it as
 15 possible evidence. The panel has asked for it,
 16 because it might be relevant, so to the extent
 17 that anybody wants that to be made part of the
 18 record, then I think they are going to have to
 19 address that in their case in chief.
 20 MR. TYGART: The one qualifier to
 21 that is in the stipulation, there are a couple
 22 of points, 1, to 3.
 23 MR. COLBERT: It's part of this
 24 packet. Okay. I hadn't looked at this yet, but
 25 I have got this one study here, but you sent, at

Page 23

1 least, a lot of material came in, I guess, it
 2 was on Friday.
 3 MR. COLLINS: Yeah, that had some
 4 backup pages.
 5 MR. TYGART: That had backup data.
 6 MR. COLLINS: The only thing I
 7 noticed late last night in looking at it is that
 8 one test, for some reason, isn't on there, and
 9 it's the test that we got from the IAAF on May
 10 12th from his world record, which was done at
 11 the London lab, which was a negative test. For
 12 some reason that's not on there.
 13 MR. COLBERT: Was it shown on the
 14 other materials?
 15 MR. COLLINS: It's in the exhibits
 16 that are in their briefs.
 17 MR. BOCK: No.
 18 MR. COLLINS: Yes, it is, the May
 19 12th.
 20 MR. BOCK: The May 12th.
 21 MR. COLLINS: I believe it's Exhibit
 22 8 in your book.
 23 MR. TYGART: You are saying we don't
 24 have the steroid profiles for that test?
 25 MR. COLLINS: Exhibit 9, you can see

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1 at the bottom of it, in competition, there's
 2 12-05-06, London EPO. That's the May 12th, 2006
 3 test, from when he set the world record.
 4 MR. BOCK: I don't think there's a
 5 doping control -- I'm wrong, you are right.
 6 There is.
 7 MR. COLBERT: Looking at Exhibit 8?
 8 MR. COLLINS: Actually 9, I was off
 9 by one. I was trying to show off and blew it.
 10 MR. COLBERT: You're talking about
 11 the 12-05-06, May 12th?
 12 MR. COLLINS: Yes.
 13 MR. COLBERT: It's got no sample code
 14 on it.
 15 MR. COLLINS: I understand that. But
 16 there is one in there later, two pages in, it's
 17 USADA. It's marked USADA, Bates stamped USADA
 18 0250, would show that it, when it --
 19 THE REPORTER: Would show?
 20 MR. COLLINS: -- would show when it
 21 was collected. That's the doping control form
 22 from the IAAF.
 23 MR. COLBERT: Just a second.
 24 Any questions?
 25 MR. CAMPBELL: Not yet.

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1 MR. COLBERT: I think that's all the
2 housekeeping.
3 MR. COLLINS: That's all I have.
4 I don't mean to dominate.
5 MR. COLBERT: Actually, it does
6 indicate that there's far fewer witnesses, we're
7 likely to be able to get it done in two days.
8 All right.
9 If there isn't anything else, now,
10 you can swear the witness. I'm -- excuse me,
11 still doing opening here? Opening.
12 Usually, by this time, 10:30, we've
13 long since started. Now, typically, again, it
14 would be your case, Mr. Tygart, but have you
15 guys agreed on who is going first.
16 MR. COLLINS: I'm happy to let him
17 open. I assume we're calling the witnesses. If
18 he wants me to open, these are just prefatory
19 remarks to try to get things in context, given
20 the volumes of briefs we have, you probably have
21 a pretty good context already.
22 MR. COLBERT: Are you going to open
23 also, Mr. Tygart?
24 MR. TYGART: We will have just a
25 brief opening.

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1 MR. COLBERT: Okay. Mr. Collins.
2 MR. COLLINS: First, thank the panel.
3 I appreciate you coming down and doing this. I
4 wanted to start by noting that doping in sport
5 is a problem. It's a big problem. And it's
6 been a problem for years. You are not going to
7 hear us say anything other than doping is a
8 problem, and we also agree that doping in sport
9 is bad. It's very bad.
10 And currently, there's a war on
11 doping in sport. It's something we've learned
12 is that it's something we know, is that wars are
13 also bad, and that no matter how just the cause
14 or the reason for the war, the war is still bad,
15 and bad things happen. Often during wars, the
16 people waging them do so zealously, which is
17 their job, which is what they're to do, but as
18 part of that, the rights and liberties of people
19 are sometimes trampled. We saw that after Pearl
20 Harbor. We saw it recently after 9/11, and we
21 have learned over time that the war on doping
22 sport is no different.
23 They've adopted strict liability,
24 which by definition is going to sweep in
25 innocent victims.

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1 Over time, things start to moderate
2 a bit, in these wars, and we have seen that
3 here. Initially, when a war was first started
4 in doping in sport, the IAAF code had no
5 exceptions. It was strict liability, and that
6 was it. Unfortunately, Justin got caught in
7 that war as a casualty on a case where he had
8 been taking prescription medicine, and an AAA
9 panel much like yours found that he never
10 intentionally cheated or did anything, but
11 because of the rules of engagement at that time,
12 he was swept in, and it didn't matter that he
13 was an innocent victim.
14 But panels like you have recognized
15 that there's -- and it's always, you know, when
16 these things are happening, it's always the
17 court, it's always the judges, or in this case,
18 the arbitration panels, that are the voice of
19 reason that comes in, and says, wait, natural
20 justice still doesn't exist. That there still
21 is proportionality, that we can't abandon our
22 ideas, and that's what CAS panels, AAA panels
23 have done on the war in doping. And those
24 messages have been heard.
25 The WADA code, when it came in, it

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1 heard and read and knew about the opinions of
2 proportionality and how it came in, and they
3 knew that strict liability was unfair, and they
4 gave a little bit of a break. They gave the no
5 fault, no significant fault was added to the
6 code to try to get some level of
7 proportionality.
8 But once again, it was learned that
9 there was still, there was still problems.
10 There was lacunas or gaps in the code. And once
11 again, it was the arbitration panels that had
12 that right to do natural justice, to rule with
13 proportionality, the rights that aren't taken
14 away from people. And those arbitration panels
15 acted. And again, WADA has heard that. And
16 they have heard, and you can see it in the new
17 code, that things like the Puerta case, and the
18 lacunas that were found there, are now being
19 drafted into the new code.
20 So what you are going to hear over
21 the next couple of days is you are going to hear
22 how, unfortunately, Justin, who happens to be
23 one of the most gifted athletes in the world,
24 has the unfortunate luck of being one of the
25 most unlucky ones. And he's once again an

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1 innocent victim.
 2 You are going to hear evidence over
 3 the next two days that Justin never knowingly
 4 took any banned substance. He never authorized
 5 anyone to give him a banned substance. You are
 6 going to hear about the aberrational test in
 7 Kansas on April 22nd and how that came back
 8 positive for CIR, or the CIR test there came
 9 back positive. But you are also going to hear
 10 how the CIR test taken around the exact same
 11 time came back negative. You are going to hear
 12 evidence that there were aberrational things in
 13 and around Kansas relays that we believe, and we
 14 believe will demonstrate to you, by what caused
 15 that result.
 16 We will demonstrate how the only way
 17 the substance could have gotten into his body,
 18 based on ruling out the other possibilities, was
 19 through his skin. You will hear how Justin has
 20 accepted responsibility, how he used his utmost
 21 care to avoid it happening, but then even when
 22 he was caught in this terrible situation, you
 23 will find out and hear evidence that what we did
 24 was he started to cooperate immediately. He
 25 started working with the Internal Revenue

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1 Service that had the ongoing doping case in
 2 BALCO, and how he, on the spot, when asked, made
 3 undercover calls, nothing to hide, nothing to
 4 do. They asked him to make the call, and he
 5 made it.
 6 You will also hear how -- there's
 7 going to be a lot of stuff, there's going to be
 8 talk that Justin was somehow bad because he was
 9 with Trevor Graham. In many ways, this case is
 10 about Justin Gatlin. But our concern is there's
 11 going to be this Trevor Graham is going to be
 12 this elephant in the room, they're going to try
 13 to keep pointing to that isn't in the room.
 14 And you're going to hear evidence
 15 how at the time this happened, Trevor Graham had
 16 not been suspended. He had turned in the
 17 syringe. He publicly said he was trying to
 18 clean up the sport, and that Justin Gatlin
 19 believed that that was the case. His parents
 20 believed that to be the case and they didn't
 21 have information to the contrary. They didn't
 22 know what USADA and the federal government knew.
 23 You will also hear what I have
 24 called guilt by association arguments, I
 25 suspect, that Justin should be found negligent

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1 because he was with Trevor Graham, or because he
 2 was with Chris Whetstine, but you will learn
 3 that Chris Whetstine was actually hired by Nike.
 4 He was working on Nike athletes, the elite Nike
 5 athletes in the world.
 6 And throughout all of this, it's
 7 going to be very important to remember what is
 8 the burden of proof here. The code has strict
 9 liability. That just means if it's in you, you
 10 have to say how it entered your body, and you
 11 are going to hear evidence that it was through
 12 his skin. But in weighing all these facts, what
 13 has to happen when you are looking at no fault,
 14 no significant fault, is whether Justin has
 15 provided evidence that proves it by a balance of
 16 probability, or in the United States, what we
 17 would call a mere preponderance. There is no
 18 presumption of guilt, there's no presumption of
 19 intentional use. He just has to show by a
 20 balance of probabilities that he was not at
 21 fault, and there was no significant fault.
 22 And we thank you in advance for
 23 keeping an open mind and for recognizing your
 24 obligation to do and find a just and
 25 proportionate result.

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1 Thank you.
 2 MR. CAMPBELL: I have a couple of
 3 questions, if I may.
 4 MR. COLBERT: Go ahead.
 5 MR. CAMPBELL: Mr. Collins, when
 6 Mr. Gatlin was, went before the IAAF, for his
 7 first test, for the first test in 2002, was it?
 8 MR. COLLINS: 2001.
 9 MR. CAMPBELL: 2001, okay. Did they
 10 give him any period of suspension, or did they
 11 immediately reinstate him?
 12 MR. COLLINS: I believe they
 13 reinstated him effective immediately.
 14 MR. CAMPBELL: Was there any
 15 documents that they produced to you about that
 16 reinstatement?
 17 MR. COLLINS: I think all there was
 18 was a press release following the meeting saying
 19 he was reinstated.
 20 MR. CAMPBELL: That's it.
 21 MR. COLLINS: That's all I recall.
 22 MR. BOCK: There's one of our
 23 exhibits references that, the minutes from the
 24 IAAF meeting.
 25 MR. CAMPBELL: I saw the press

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1 release. Were there any decisions that the IAAF
 2 made as a result, I mean, other than the press
 3 release?
 4 MR. BOCK: Well, actually --
 5 MR. COLLINS: The minutes of the
 6 meeting, where it happened, I think it was noted
 7 in those minutes, but there was not a separate
 8 document that was sent over, that I'm aware of.
 9 MR. BOCK: There wasn't an agreement
 10 or anything like that.
 11 MR. CAMPBELL: Okay.
 12 MR. COLBERT: Mr. Tygart?
 13 MR. TYGART: Very briefly. Also
 14 thank you for your time and consideration in
 15 this matter.
 16 One of the truly great aspects of
 17 the USADA process that started in October of
 18 2000 is that we now have independent arbitrators
 19 that uniformly apply the established rules to
 20 the facts of the case, and that's a great
 21 benefit to Mr. Gatlin. It's also a great
 22 benefit to USADA, and it's a great benefit to
 23 all those other athletes out there who are
 24 competing clean, who don't have positive tests,
 25 who expect fair and uniform decisions coming out

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1 of independent arbitrators. So we appreciate
 2 you all for taking your job seriously.
 3 Our goal in this case is the same
 4 goal as it is in every case. It's to have a
 5 fair and just outcome based on the facts of the
 6 case, after uniform application of the
 7 established rules.
 8 In this case, the parties by our
 9 stipulation have essentially agreed to many of
 10 the factual issues that are normally at issue in
 11 these doping cases. And I'm not going to take
 12 the time to run through each of those factual
 13 issues and recite the stipulation to you. You
 14 have it, and it's been provided at Gatlin
 15 Exhibit 1. But what you know from that, and
 16 what you know from the briefing is that the only
 17 issue to be decided by this panel is exact
 18 consequence, under the established rules for
 19 Mr. Gatlin's second positive test, second doping
 20 violation.
 21 In his briefing, and again, a little
 22 bit in opening, Mr. Collins has offered sort of
 23 a grab bag of different legal theories and
 24 arguments. And while it could be a classic
 25 throw everything up on the wall, and see what

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1 sticks, I think, unfortunately, it's not
 2 necessary. And it's a sideshow that hopefully
 3 won't distract this panel from applying the
 4 clear legal framework to come to a fair and just
 5 resolution based on the applicable rules and the
 6 facts that are presented. And I think any other
 7 decision that's based on any of these, this
 8 legal sideshow is not a fair and just decision
 9 that clean athletes in the world can rely on,
 10 and really doesn't do Mr. Gatlin or USADA any
 11 good to have that questioned.
 12 The legal framework is
 13 straightforward. As you know, we've agreed to
 14 an eight-year period of ineligibility. This
 15 eight-year period of ineligibility was agreed to
 16 based on Mr. Gatlin receiving credit for the
 17 nature of his first offense.
 18 It's expressly spelled out in the
 19 code, and again confirmed in the Puerta decision
 20 that we have the ability to do that. If we had
 21 not considered the nature of this first offense
 22 in agreeing to a stipulation, we would be here
 23 seeking a lifetime ban.
 24 Mr. Collins indicates in his brief
 25 that the eight-year period of ineligibility was

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1 agreed to because Mr. Gatlin waived his right to
 2 challenge the collection and the laboratory
 3 analysis. We frankly just don't have that
 4 discretion under the rules. And we in no case,
 5 regardless of the penalty, can waive the
 6 otherwise applicable sanctions simply because an
 7 athlete agrees to not contest certain issues.
 8 The only reason we did it is based on giving
 9 credit for the nature of the first offense.
 10 That's in the stipulation. You look at the
 11 press release that they saw and agreed to prior
 12 to it being released, and the quote from Terry
 13 Madden in that press release says: "Based on
 14 the unique nature of the international press,
 15 and his first offense, we felt an eight-year
 16 outcome was fair and just."
 17 You also see -- and that's Exhibit
 18 23 in USADA exhibit book -- you also see another
 19 press release from the Scott Boothby case, a
 20 Track and Field athlete who similarly had a
 21 first offense based on a medical situation, had
 22 a second offense, it was a full standard
 23 offense, he received an eight-year period of
 24 ineligibility. That's the precedent that we
 25 followed in this case. That's the precedent we

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1 followed in Mr. Boothby's case.
 2 So the reason we're here is to
 3 consider the facts of the second offense, and if
 4 Mr. Gatlin has met his burden to establish that
 5 he's entitled to any further reduction in the
 6 eight-year period of ineligibility, and he's not
 7 entitled to any further reduction in that
 8 eight-year period of ineligibility, unless he
 9 meets one of the only two legal avenues, and he
 10 meets it to the burden that is set forth for
 11 him.
 12 These two legal avenues are one,
 13 exceptional circumstances concerning the
 14 positive testosterone test, as described in the
 15 WADA code Article 10.5, and/or, has he met and
 16 proven he deserves a further reduction based on
 17 his substantial assistance as defined in Article
 18 10.3 of the WADA code.
 19 There's no dispute that it's his
 20 burden, and there's no dispute what the burden
 21 is, you can look in Article 3 of the WADA code,
 22 and it's by a balance of the probabilities,
 23 preponderance of the evidence. There's no
 24 dispute on that. So exceptional circumstances.
 25 Again, he's not received any further

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1 reduction unless and until he meets his burden
 2 to prove he has exceptional circumstances with
 3 respect to his second positive test result. To
 4 do this, first he must prove the source of the
 5 prohibited substance; how the prohibited
 6 substance got into his system. The theories and
 7 allegations on those have been public. They
 8 have been outrageous at times, and they have
 9 been wildly inconsistent. We have yet to see
 10 any legitimate source, any evidence, proving the
 11 legitimate source of this positive test.
 12 In his brief, the allegation is that
 13 immediately following the relay race on April
 14 22nd, 2006, and just prior to doping control,
 15 that Mr. Gatlin's masseuse, Chris Whetstine,
 16 applied a testosterone cream on his leg. There
 17 hasn't really been any evidence on this, other
 18 than speculation and interesting, as we already
 19 discussed, despite this allegation, which, I
 20 think, is essentially a criminal battery
 21 allegation, they didn't even list or attempt to
 22 call Mr. Whetstine as a witness, which is why we
 23 then felt it was in the panel's interest and our
 24 interest to have him at least be able to respond
 25 to these allegations.

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1 Again, if he fails to prove how the
 2 source entered his body, the exceptional
 3 circumstance analysis ends there. In the event
 4 he establishes it, and not until he establishes
 5 it, he then must prove he's without fault or
 6 negligence or that he's without significant
 7 fault or negligence in order to receive any
 8 reduction.
 9 Now, the second legal avenue found
 10 in the code rules applicable to this hearing
 11 10.5.3, allow Mr. Gatlin the opportunity to
 12 prove he's entitled to a reduction, based on his
 13 substantial assistance in discovering or
 14 establishing an anti-doping rules violation.
 15 There's no evidence that he
 16 provided, and you won't hear any evidence that
 17 he's provided any assistance to USADA. Because,
 18 truthfully, he just hasn't.
 19 USADA fully supports athletes
 20 providing substantial assistance. And while we
 21 do not know all the particulars of Mr. Gatlin's
 22 assistance, we thank him for agreeing to work
 23 with the federal government and doing the things
 24 that he did; however, simply because someone
 25 agrees to provide assistance does not

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1 automatically entitle them to a reduction and
 2 the otherwise applicable period of
 3 ineligibility.
 4 WADA Article 10.5.3 is very specific
 5 that the assistance must lead to the discovering
 6 or establishing an anti-doping rule violation.
 7 Frankly, we hope that Mr. Gatlin
 8 assisted in a manner that would be good for the
 9 anti-doping movement, and that it would lead to
 10 the establishment or discovering of other
 11 anti-doping rules violations.
 12 But until we hear the evidence, we
 13 just don't believe that has been done.
 14 We ask you again to keep an open
 15 mind until all the evidence is presented. We
 16 think there's clear legal pathways for you to
 17 analyze that evidence, and come to a just and
 18 right outcome, based on the established
 19 principles and the facts that Mr. Collins
 20 presents. Thank you.
 21 MR. COLBERT: I have a -- you want to
 22 ask first?
 23 MR. CAMPBELL: Go ahead.
 24 MR. COLBERT: You mentioned a couple
 25 of times, the applicable code, Mr. Tygart, and

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<p>1 you referenced the 2003 code, WADA code. 2 Mr. Collins, in his brief, points to an amended 3 code, 2007 code. Could you please, for the 4 panel, identify your position, because I didn't 5 see any argument in your papers, position with 6 regard to the provisions of the 2007 proposed 7 code, and how -- whether the panel should 8 consider them, whether it may consider them or 9 what your position is. 10 MR. TYGART: Yeah. We will, we'll 11 obviously address that in closing, if it's still 12 relevant. I think, initially, it's not in 13 effect yet. I mean, it clearly states, until 14 it's in effect, it doesn't apply. You can look 15 at Article 25 1.2.3. It's not in effect yet. 16 And even on sort of a lex mitior argument, which 17 we haven't heard yet, the code addresses that. 18 It says: Nonretroactive, unless principles of 19 lex mitior apply, but specifically it says lex 20 mitior doesn't apply until it's effective, 21 because it's not effective. 22 If this was after November 1st, if 23 this was arguably after January 1, and this 24 version of this code was approved, then there 25 may be a tenable lex mitior argument. But we</p>	<p>1 it should be. 2 MR. CAMPBELL: Well, here's my 3 problem with that. The decision in the first 4 case found that he absolutely had disability, so 5 he has rights associated with that disability. 6 The decision in the first case expressly did not 7 determine whether there was fault, so I don't 8 know where you get no significant fault and 9 negligence. That issue never was addressed. 10 MR. TYGART: Well, we're not here to 11 retry the first decision. 12 MR. CAMPBELL: No, but our decision 13 is going to be based on the first decision. In 14 other words, if he had a legitimate disability, 15 and he wasn't at fault, our decision is much 16 different. 17 MR. TYGART: Well, he was -- I mean, 18 again, we will address some of these issues 19 further in close -- but he was given, he should 20 have received a two-year penalty. We, along 21 with -- 22 MR. CAMPBELL: You say he should have 23 received a two-year penalty? 24 MR. TYGART: That was the rules in 25 effect at the time. And USADA, with Mr. Gatlin,</p>
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<p>1 have seen no proof that a document that is in 2 draft form hasn't been approved, has any legal 3 basis to apply in this proceeding even under a 4 lex mitior analysis, because again, it's not 5 effective. 6 MR. CAMPBELL: Mr. Tygart, I'm very 7 interested in the first offense. And in your 8 brief, you mentioned that, I think you are 9 categorizing the first offense as no significant 10 fault or negligence, is that right? 11 MR. TYGART: That's right. 12 MR. CAMPBELL: And where do you get 13 that ruling from? 14 MR. TYGART: Well, he served a 15 one-year period of ineligibility, which is what 16 would be applicable under the current code or 17 under even this code for an amphetamine offense 18 that derived from use of a medicinal product. 19 It would most likely be -- we've seen, you were 20 on the Ricky Harris case, you know that case 21 well -- we have seen other cases where a year 22 suspension based on a no significant fault 23 analysis was applied. And I think you combine 24 that fact, today, that's what it would be, with 25 the Puerta reasoning, that that's exactly where</p>	<p>1 essentially did a stipulated agreement where, 2 and then approached IAAF for the early 3 reinstatement. And if you remember the rules at 4 the time were that the two years went into 5 effect, if you did not have an exemption in 6 advance, which he failed to do. We presented 7 that to the IAAF counsel. They agreed, at the 8 time, to reduce it, essentially reinstate him 9 after a year. He had served a year of 10 ineligibility, and that was accepted by the 11 panel in the AAA level. And specifically 12 Mr. Gatlin was given notice following that 13 decision that this will be an offense, it is an 14 offense, and any further offense will be a 15 lifetime penalty, so he was specifically put on 16 notice. He had a heightened sense and specific 17 notice and warning of the consequence of that 18 first decision. 19 And so, you know, we are not here to 20 retry the first decision. It is what it is. He 21 received a one-year penalty, was specifically 22 told your next offense will be a lifetime ban. 23 We are here now on the second offense. 24 MR. CAMPBELL: Well, it's important 25 to me because in this particular case, the issue</p>

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1 becomes fault, and the issue becomes fault for 2 both cases, not just one, and I don't see 3 determination of fault in the first case unless 4 you can show me.	1. proceed? 2 MR. COLLINS: We are prepared to call 3 our first witness. We are going to have you sit 4 here, Justin.
5 MR. TYGART: Well, I tell you, 6 we're -- I think you look at one, the 7 stipulation; two, we're not here to retry -- it 8 goes to the heart of why you don't retry first 9 cases -- I mean we have a panel. We don't have 10 the facts. That decision has been made. That 11 decision is what it is. There's a decision that 12 confirms it. He didn't appeal it.	5 MR. COLBERT: Okay. 6 7 8 9
13 MR. CAMPBELL: He didn't have to 14 appeal the first decision. Because the decision 15 said, if he didn't get a result that he liked, 16 then, he could, then he could bring further 17 proceedings. When have you ever read a 18 decision, that says, if you don't get a decision 19 that you like from the IAAF, and you can reach a 20 further decision? We made no decision.	10 11 12 13 14 15 16 17 18 19 20
21 MR. TYGART: I just respectfully 22 disagree. The decision was that it was a first 23 offense. It's absolutely clear in IAAF's 24 decision that Mr. Gatlin --	21 22 23 24
25 MR. CAMPBELL: You can have a first	25
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1 offense without having fault, can't you? 2 MR. TYGART: Well, yeah. I mean, 3 sure.	1 WHEREUPON, 2 JUSTIN GATLIN, 3 the Respondent herein, having been first duly 4 sworn to state the whole truth, testified on his 5 oath as follows:
4 MR. CAMPBELL: Okay. 5 MR. COLBERT: Do you have any 6 questions?	6 EXAMINATION
7 MR. CHERIS: No. 8 MR. COLBERT: Any others? 9 Mr. Collins. Do you want to comment or --	7 BY MR. COLLINS: 8 Q. Could you please state your name for 9 the record? I think everyone knows it.
10 MR. COLLINS: I just want to make a 11 comment that I tried not to, in my opening, 12 reargue things that were in the briefs. 13 Obviously, there's positions of his we disagree 14 with that have been briefed. I don't want 15 anybody to believe that I have waived those. In 16 an efficient use of time, I wasn't going to make 17 arguments I have already made in paper.	10 A. Justin Alexander Gatlin. 11 Q. You are a track athlete? 12 A. Yes, I am. 13 Q. Approximately, when did you first 14 start running track? 15 A. At the age of about 15; 14, 15 years 16 old.
18 MR. COLBERT: I don't think anybody 19 is thinking you waived anything.	17 Q. So when you were in high school? 18 A. Yes, sir.
20 MR. COLLINS: I have been pretty 21 clear on that point?	19 Q. Did you have a very successful high 20 school career?
22 MR. COLBERT: You have been pretty 23 clear on that point, I believe.	21 A. I did. State champion, two times 22 state champion, 100-meter hurdles, 300-meter 23 hurdles, third long jump, world -- won the 24 junior record in the state championship as well.
24 MR. COLLINS: Thank you. 25 MR. COLBERT: Are you prepared to	24 25 Q. What state was that?

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<p>1 A. Florida.</p> <p>2 Q. And after high school, did you</p> <p>3 continue to run track?</p> <p>4 A. I did. I got a full scholarship to</p> <p>5 the University of Tennessee in the hurdles.</p> <p>6 Q. When you got to Tennessee, what</p> <p>7 events did you run?</p> <p>8 A. I started running hurdles, and then</p> <p>9 my coach obviously saw that I had the talent,</p> <p>10 the gift of speed, as well, and he put me into</p> <p>11 many sprinter events.</p> <p>12 Q. How did you -- were you very</p> <p>13 successful in college?</p> <p>14 A. Yes, I was. I have acquired within</p> <p>15 two years, a ring for each finger, and I also</p> <p>16 have the six-time NCAA champion, 100, 200-,</p> <p>17 60-meters, 200-meters, and I have set the</p> <p>18 collegiate record.</p> <p>19 Q. And your high school track team won</p> <p>20 the state title?</p> <p>21 A. Yes, it did. It hasn't been won in</p> <p>22 the northwest Florida in 72 years.</p> <p>23 Q. And you won a number of -- you were</p> <p>24 the leading point person on that team, I assume?</p> <p>25 A. All my points individually, and what</p>	<p>1 A. Yes, sir.</p> <p>2 Q. And at the 2001 Junior Nationals,</p> <p>3 you tested positive for having trace amounts of</p> <p>4 amphetamine in your system; is that correct?</p> <p>5 A. Yes, sir, Adderall.</p> <p>6 Q. Now, why were you taking Adderall?</p> <p>7 A. I'm ADD. I'm still ADD, and at that</p> <p>8 point in time, I was taking exams, and it helped</p> <p>9 me study and concentrate, and I have been taking</p> <p>10 Adderall since I was nine years old.</p> <p>11 Q. When were you first diagnosed with</p> <p>12 ADD?</p> <p>13 A. Nine years old.</p> <p>14 Q. And the medicine you took, you said</p> <p>15 was Adderall?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Did you try other medicines?</p> <p>18 A. I tried Zoloft, and I tried Ritalin,</p> <p>19 but none of the stuff had really, it didn't work</p> <p>20 on my appetite. I didn't eat. I was losing</p> <p>21 weight, so I had to try something, and we had</p> <p>22 Adderall.</p> <p>23 Q. And did that work?</p> <p>24 A. A little bit, but I still didn't eat</p> <p>25 that much, but it was better than the others.</p>
<p>Page 50</p> <p>1 it got me third place in the state championship</p> <p>2 by myself.</p> <p>3 Q. In college in Tennessee, your second</p> <p>4 year, you won the NCAAAs?</p> <p>5 A. Yes.</p> <p>6 Q. Now, after your first year at</p> <p>7 Tennessee, did you win -- what events did you</p> <p>8 win as a freshman?</p> <p>9 A. I won the 100- and 200-meters as a</p> <p>10 freshman outdoors.</p> <p>11 Q. And after that, did you go</p> <p>12 participate in the USA Track and Field Junior</p> <p>13 Nationals?</p> <p>14 A. I did, yes, sir.</p> <p>15 Q. Who entered you in that?</p> <p>16 A. University of Tennessee, my coach.</p> <p>17 Q. And who filled out the paperwork for</p> <p>18 that?</p> <p>19 A. My coach.</p> <p>20 Q. Did you participate in USA Track and</p> <p>21 Field events prior to that?</p> <p>22 A. Never knew anything about it; no, I</p> <p>23 have not.</p> <p>24 Q. Now, at the 2001 -- the end of your</p> <p>25 freshman year would have been 2001, Tennessee?</p>	<p>Page 52</p> <p>1 Q. How did you feel when you were</p> <p>2 taking your medicine?</p> <p>3 A. Sluggish. I felt that I could focus</p> <p>4 and concentrate, but it didn't help on the</p> <p>5 track. It felt like one lap was a mile, and so,</p> <p>6 I would take it at a point where I know that I</p> <p>7 could study for all my classes, and that towards</p> <p>8 the end of the day, I was able to still function</p> <p>9 and run track and practice.</p> <p>10 Q. So you then -- your sophomore year</p> <p>11 at Tennessee, you again go to Nationals, and you</p> <p>12 go indoor and outdoor?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And how did you perform there?</p> <p>15 A. I won the 60-meters indoor, and I</p> <p>16 won the national title in 2001 and 2002 indoor</p> <p>17 championships. We went outdoors, and I won the</p> <p>18 100-meter and 200-meter at LSU.</p> <p>19 Q. Now, after your sophomore year of</p> <p>20 college, did you run your junior year in college</p> <p>21 or no?</p> <p>22 A. No, I did not.</p> <p>23 Q. Why was that?</p> <p>24 A. I turned pro.</p> <p>25 Q. And how did that come to be?</p>

Page 53	Page 55
<p>1 A. Well, I was debating with my coaches 2 if I should stay. 3 Q. Which coaches is that? 4 A. Bill Webb and Vince Anderson, both 5 University of Tennessee coaches. And from 6 there, I received a phone call from Trevor 7 Graham while I was en route to driving to New 8 York with my family, and he called. And I was 9 already talking to some agents, agents were 10 calling me, and I didn't know who Trevor Graham 11 was at that point in time at all. 12 And he said that I -- he said his 13 name was Trevor Graham. And I said, so what do 14 you want to do? Do you want to represent me 15 like an agent? And he kind of, kind of was 16 taken back, because I didn't know who he was at 17 all, and he, he said, no, I want to coach you. 18 So that's how it went. 19 Q. How did he represent himself as a 20 coach to you? 21 A. He basically said that Nike was very 22 interested in me to come out of high school, but 23 they didn't want to seem like they were taking 24 athletes out of school, especially from rival 25 schools, such as Adidas.</p>	<p>1 Nike? 2 A. Yes, I did. 3 Q. And how did that happen? 4 A. Well, I gave up my eligibility as a 5 college athlete, and at that point in time, 6 there was another athlete called Alan Webb, who 7 was running, and we saw an article how much he 8 was getting paid, and we felt that we did pretty 9 much, I pretty much did the same thing he had 10 done or better on the track, and we asked for a 11 specific price, and Nike did not turn it down. 12 Nike, by the course, so they were very intent on 13 having me as an athlete. 14 Q. All right. 15 Did you have any discussions with 16 Trevor Graham prior to signing this, about 17 making sure that you participated clean without 18 using any doping. 19 A. Yes, I did. 20 Q. What were those conversations? 21 A. I sat down with me, both of my 22 parents, and we talked, and I told him that I 23 had a previous incident in 2001, and due to that 24 incident, we don't want to have any kind of drug 25 haps or drug mistakes, and he told me at that</p>
<p>Page 54</p> <p>1 Q. And Tennessee was an Adidas school? 2 A. Yes, sir. 3 Q. Did he ever say that he ever coached 4 anybody of any note to try to sell you? 5 A. He said he was coaching Marion 6 Jones, and that's when I put two and two 7 together. 8 Q. And you said this was in a car ride 9 to New York? 10 A. Yes. 11 Q. And why were you going to New York? 12 A. My aunt died, my great-aunt died, 13 and we didn't have the finances to fly all of us 14 up there, so we drove 12 hours to New York. 15 Q. Did you say yes to -- 16 A. At that point in time, no. We told 17 him that we have a lot of things on our plate 18 right now, that we need to take care of 19 family-wise, and that if he's interested in 20 coaching me, and interested in giving a contract 21 then get back to us in a week, and he did. 22 Q. So, you ended up -- did you end up 23 being coached by Trevor Graham? 24 A. Yes, sir. 25 Q. And did you end up signing with</p>	<p>Page 56</p> <p>1 point in time that he would take care of me like 2 a son. He would make sure that I wasn't harmed 3 in any way, because I was 21 years old, moving 4 somewhere in North Carolina, I have never been 5 before. 6 Q. So, did you then go to train with 7 Trevor Graham? 8 A. Yes, I did. 9 Q. When was that? 10 A. In 2000, going into 2003, 2002. 11 Q. So fall of 2002 instead of going to 12 Tennessee, you go to North Carolina? 13 A. Yes, sir. 14 Q. How were the workouts once you got 15 to -- did he call his group, his running group 16 something? 17 A. Sprint Capitol. 18 Q. Sprint Capitol? 19 A. Yes, sir. 20 Q. How were the workouts at Sprint 21 Capitol? 22 A. Grueling. I mean something I wasn't 23 used to at all. We lifted weights six times a 24 week. We were on the track six hours a day, 25 every day, three hours in the weight room, three</p>

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<p>1 hours in the track, no matter if it was snowing. 2 The only time we would not be on the track, if 3 it was like, other than that, there were times 4 we were shoveling snow off the tracks, so we 5 could just go out there and run. 6 Q. I'm assuming that that was a few 7 more hours a day than you were putting in when 8 you were at Tennessee? 9 A. Definitely. He would not allow us 10 to take certain vacations off, Thanksgiving, I 11 had to plead with him for Christmas to be able 12 to go see my family. 13 Q. Did you work on your technique and 14 stuff? 15 A. Technique was a big part of our, 16 part of our workout. We were on the track, some 17 days, like Wednesdays, we would have a technique 18 day, where you sit and watch certain athletes 19 like Carl Lewis, Leroy Burrell, and watch their 20 techniques, like highlight those. 21 Q. When you were training with Sprint 22 Capitol, did Trevor Graham ever discuss with the 23 group, performance-enhancing drugs? 24 A. No. 25 Q. Did he ever say -- about avoiding</p>	<p>1 ready to run, I will let you run. So I pretty 2 much, every day, I went out there. I threw up. 3 I worked hard in the sun, and I showed him that 4 I was ready to run, be a world champion. 5 Q. Did you participate in indoor meets? 6 A. I participated in three indoor 7 meets. 8 Q. How was your -- were you successful? 9 A. I was, in every race. 10 Q. And did you compete in the world 11 indoor championships in 2003? 12 A. Pardon? 13 Q. Did you participate in the world 14 indoor championships in 2003? 15 A. Yes, I did. 16 Q. How did you do? 17 A. I won the world championships. 18 Q. And in what event? 19 A. 60-meters. 20 THE REPORTER: I'm sorry? 21 A. 60-meters. 22 THE REPORTER: Thank you. 23 Q. How did the outdoor season go in 24 2003? 25 A. Coming off my indoor world</p>
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<p>1 drugs? 2 A. Yes, he did. 3 Q. What would he do there? 4 A. We would have a chant before our 5 practice, and we would get together, and he 6 would always emphasize that he is our coach, but 7 he cannot be around us 24-7. So whatever you do 8 will affect this camp in a negative way or a 9 positive way. 10 Q. Would part of this chant be staying 11 off of drugs? 12 A. Yes, it was. 13 Q. So you go -- when do you start 14 competing professionally, because you are 15 working out hard on the fall. Do you run in 16 meets in the fall? 17 A. Not in the fall, going into the 18 winter, the latter part -- well, actually, going 19 into the next year, early 2003 I ran indoors. I 20 made a deal with Trevor, and I said, I'm really 21 excited to be a professional athlete. I want to 22 set the tone early. So I asked him could I run 23 indoors, and he's not very particular about 24 indoors, and he said that if you go out there, 25 and you work hard, and you show me that you are</p>	<p>1 championship, I was very excited about the 2 outdoors, and I loved the 200, and I was ready 3 to run the 200, and I ran in Mexico, and I 4 pulled my hamstring in Mexico. I didn't even 5 finish the race. So, that was, that set me back 6 for the summer season. 7 Q. In 2004, did you continue running? 8 A. I did. 9 Q. And how did your 2004 outdoor -- did 10 you run indoor in 2004? 11 A. No, I did not. 12 Q. Why not? 13 A. Because Trevor didn't like the 14 transition from running the 60-meters to running 15 100-meters or 200-meters. He felt that your 16 body and your muscle memory was so used to 17 running a 60-meters that it would already tank 18 out at 60, while you are running 100- or 19 200-meter race, so basically he didn't like to 20 structure you to run a 60-meters, and have to 21 clean your whole slate within less than a month 22 to run 100-meters or 200-meters. 23 Q. So you only ran outdoor in 2004? 24 A. Yes, sir. 25 Q. And how was your season in 2004?</p>

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<p>1 A. It was good. I had a training, a 2 new training partner named Shawn Crawford, and 3 we worked well together. We meshed well 4 together, and he was running great times, you 5 know, and I was not that far behind him. And I 6 just think that in '04, I was more worried about 7 my dream that I have always dreamt since I was a 8 little boy.</p> <p>9 Q. What was that dream?</p> <p>10 A. Winning the Olympics, or even just 11 being there. I have always prayed, I prayed 12 almost every night, just to be at the Olympics, 13 even if I sat at the stands. And at a moment of 14 clarity, when I was at the finals, and I began 15 to cry before the race, because I was so happy 16 that I was just here even if I just came across 17 the line. Even if I came dead last, I was just 18 so happy to be a part of the situation.</p> <p>19 Q. You didn't finish last, did you?</p> <p>20 A. No, sir.</p> <p>21 Q. Where did you finish?</p> <p>22 A. I finished first.</p> <p>23 Q. In which event?</p> <p>24 A. 100-meters.</p> <p>25 Q. Did you get any other medals?</p>	<p>1. did in college.</p> <p>2 Q. So you got gold, or first in both of 3 those?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And the world championships were 6 held in 2005?</p> <p>7 A. Yes, sir.</p> <p>8 Q. How did you do in those?</p> <p>9 A. I won both races. I was one of the 10 only athletes that has ever done that before in 11 the worlds.</p> <p>12 Q. So you won the 100 and the 200 at 13 the worlds too?</p> <p>14 A. Yes, sir.</p> <p>15 Q. During this time, after turning pro, 16 were you drug-tested?</p> <p>17 A. Yes.</p> <p>18 Q. Often?</p> <p>19 A. Yeah, I think I was -- as I became 20 more popular and beginning to win more races, I 21 was drug-tested more often, which I had no 22 problem with. I knew that was part of the 23 standard of being a runner, and being a 24 successful runner.</p> <p>25 Q. Did you ever miss a test?</p>
Page 62	Page 64
<p>1 A. I got a silver, in a 4-by-1, and a 2 gold, I mean a bronze in the 200.</p> <p>3 Q. Coming out of college, were you 4 better known for the 1 or 2?</p> <p>5 A. I was better known for the 200.</p> <p>6 Q. So, you win three medals in the 7 Olympics, a gold, a silver and a bronze. 2005, 8 how does your -- do you run -- you don't run 9 indoor again in 2005?</p> <p>10 A. No, sir.</p> <p>11 Q. You run outdoor?</p> <p>12 A. Yes, sir.</p> <p>13 Q. How does that season go?</p> <p>14 A. It went very well. I believe, as an 15 athlete, when you get to a certain level that 16 you have to maintain that, to make sure that 17 history, you are placed in history. You can't 18 be up and down athlete, and from that point on, 19 winning the gold medal, I was focused on just 20 being on top, and just honing in on my God-given 21 talent. And in '05, I prepared myself for 22 Nationals and I prepared myself for the world 23 championships.</p> <p>24 Q. How did you do at Nationals?</p> <p>25 A. I won the 100 and the 200, like I</p>	<p>1 A. No, I have not. I pride myself on 2 that. I pride myself that I would never miss a 3 test, and I had no excuse to miss a test, so I 4 made sure that I was where I need to be at all 5 times.</p> <p>6 Q. And at the Olympics after you won 7 medals, you were tested each time?</p> <p>8 A. Yes.</p> <p>9 Q. And those were all negative tests?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And then you won double gold at the 12 2005 World Championships, you were tested?</p> <p>13 A. Both times.</p> <p>14 Q. And those were negative tests?</p> <p>15 A. Negative tests.</p> <p>16 Q. And you won the Nationals in 2005?</p> <p>17 A. Tested both times.</p> <p>18 Q. And those were negative?</p> <p>19 A. Negative tests.</p> <p>20 Q. Now, during this time, would you 21 ever speak to community groups, kid groups, 22 anything like that?</p> <p>23 A. I did. I got turned on to that in 24 college, where every weekend, as athletes, 25 football players, baseball players, track and</p>

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<p>1 field athletes, we would go to orphanages, or we 2 would go to hospitals and talk to kids and read 3 them stories, or just help out with them, and 4 then we would also go to smaller groups of 5 athletes in the area, and we would talk to them 6 about staying out of drugs of any kind, 7 street-wise or performance drugs. 8 Q. Did you ever work with USA Track and 9 Field about it? 10 A. Yes, I did, actually in '05, I was 11 the front runner for their campaign for being a 12 champion, which is a, will be -- we go to 13 different schools and different areas while we 14 were running there, and we would have an 15 assembly in their auditoriums, and we would come 16 and speak to all of them and read a code card to 17 stay off drugs and have a pledge. 18 Q. And you would have the people in the 19 audience take the pledge with you? 20 A. Yes, sir. 21 Q. Since you had this test result in 22 August -- or April 22nd, 2006 -- have you still 23 spoke to groups? 24 A. Definitely. I have had calls from 25 people, I have had calls from the DARE program</p>	<p>1 A. No, he did not. 2 Q. Did he ever tell you to take any 3 banned substances? 4 A. No, sir. 5 Q. Did he ever ask you to take any 6 blood tests? 7 A. No, sir. The only time I have ever 8 taken any blood tests was by the IAAF or USADA. 9 Q. What about urine tests? 10 A. Only for IAAF or USADA. 11 Q. Now, did there come a time when you 12 learned that Trevor Graham was the individual 13 that had turned in the infamous syringe that 14 sort of sparked off the BALCO investigation? 15 A. The only time I knew that Trevor 16 Graham was the person that turned in the syringe 17 was when he came forward after my 100-meter 18 finals at the Olympics, when we were walking 19 through the media area, and he was -- he had a 20 bigger crowd around him than I did around me, 21 and I had just won the gold medal -- so come to 22 find out, he was the one that had turned in the 23 syringe at that point in time. 24 Q. Did you later have any discussions 25 with him about that?</p>
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<p>1 who wanted me to come out and speak. And I have 2 called from Ronald McDonald's house, and I have 3 turned down none. It's something I love to do. 4 I love to give back to the community, I love to 5 help with the kids. 6 Q. And what's your message when you 7 talk to them? 8 A. Stay drug free. If God has given 9 you a talent to go out there and do what you can 10 do, then use that, use that to the best of your 11 abilities and don't be peer pressured to 12 anything. 13 Q. Do you need a glass of water or 14 anything? I know you have got a sore throat. 15 A. Yeah. 16 Q. I want to go back just briefly to 17 talk about your relationship with Trevor Graham. 18 A. Okay. 19 Q. He was your coach. And again, you 20 have talked about throwing up on the track. I'm 21 assuming he's a bit of a taskmaster? 22 A. Yes, we used to call him the drill 23 sergeant. 24 Q. Did he ever push any banned 25 substances on you?</p>	<p>1 A. Definitely. 2 Q. What were those discussion? 3 A. I was -- I was very confused and 4 infuriated, I mean, for not knowing that 5 situation. And then he told me that this is, 6 he's helping clean up the sport, for turning in 7 that syringe, that no one knew about at all, or 8 undetectable substance that no one had, and he 9 was helping the sport by cleaning it up by 10 turning it in. 11 Q. Did you have any knowledge to the 12 contrary? 13 A. No. 14 Q. You had heard rumors about it? 15 A. I had heard rumors that it was a 16 coach, but I never thought it would be my coach. 17 Q. Now, there's another individual that 18 I want to ask you about, Chris Whetstine. Do 19 you know who he is? 20 A. Yes, I do. 21 Q. How did you first meet Chris 22 Whetstine? 23 A. When I pulled my hamstring outdoor 24 season in 2003, in Mexico. Like I said, Nike 25 flew me to Oregon, Portland, Oregon, and they</p>

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<p>1 grove him down from Eugene, Oregon, and that's</p> <p>2 the first time I remember meeting him. And he</p> <p>3 proceeded to work on my leg and make sure he</p> <p>4 could rehab me and get me back on the track.</p> <p>5 Q. Did you hire Chris Whetstine to work</p> <p>6 for you?</p> <p>7 A. I have never paid Chris Whetstine a</p> <p>8 dime.</p> <p>9 Q. Do you know how Chris Whetstine made</p> <p>10 money?</p> <p>11 A. He made it through Nike.</p> <p>12 Q. And were you aware that he had</p> <p>13 worked on other Nike athletes?</p> <p>14 A. Most definitely.</p> <p>15 Q. Who, and what athletes would he work</p> <p>16 on for Nike?</p> <p>17 A. He worked on Sanya Richards, he</p> <p>18 worked on -- who is a gold medalist, Olympic</p> <p>19 gold medalist, 400-meters -- he worked on James</p> <p>20 Carter, who is a silver medalist in the 400, and</p> <p>21 world championships in '05; so he worked on the</p> <p>22 elite of the elite Nike athletes. He worked on</p> <p>23 Shawn Crawford, my teammate.</p> <p>24 Q. So he didn't work on every Nike</p> <p>25 athlete?</p>	<p>1 Whetstine, at the end of 2005?</p> <p>2 A. There was. It was in December. In</p> <p>3 my contract, it states that after winning --</p> <p>4 Q. In your contract with who?</p> <p>5 A. Nike. After my contract with Nike,</p> <p>6 it states that after winning certain</p> <p>7 championships, I get a bonus, and also has in</p> <p>8 Trevor Graham's contract that he had, not</p> <p>9 knowing it until now, and Chris was, I guess,</p> <p>10 infuriated by it. He was upset, because his</p> <p>11 contract did not have that, and he felt that it</p> <p>12 was my obligation or my duty to give him \$5,000</p> <p>13 for a bonus.</p> <p>14 Q. Did you pay him?</p> <p>15 A. No, I did not.</p> <p>16 Actually, we actually spoke to Nike</p> <p>17 at that point in time and asked them, would it</p> <p>18 be ethical or the right thing to do to pay him</p> <p>19 the bonus? And Nike, John Capriotti who is the</p> <p>20 director of Nike, said, no, that's his</p> <p>21 responsibility, as a Nike employee to get paid</p> <p>22 by Nike.</p> <p>23 Q. So, this is at the end of 2005,</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p data-bbox="730 1081 828 1113">Page 70</p> <p>1 A. Not every Nike athlete, only ones</p> <p>2 that Nike requested him to work on.</p> <p>3 Q. So how often would you work with</p> <p>4 Chris? He didn't move to North Carolina where</p> <p>5 you were training?</p> <p>6 A. No.</p> <p>7 Q. Would he go to every meet?</p> <p>8 A. He was there for every meet because</p> <p>9 he had to, usually, there was a lot of athletes</p> <p>10 there that he needed to work with.</p> <p>11 Q. So you would see him at meets?</p> <p>12 A. (Nod of head.)</p> <p>13 Q. And occasionally, you would see him;</p> <p>14 other times he would come to training camps if</p> <p>15 there was an issue?</p> <p>16 A. Yes.</p> <p>17 Q. So he -- when he was not in town,</p> <p>18 was there someone else you went to?</p> <p>19 A. Yes.</p> <p>20 Q. Who was that?</p> <p>21 A. Terri Blankenship.</p> <p>22 Q. Now, in 2005, we have talked about</p> <p>23 how you had a very successful season, you won</p> <p>24 double gold, world championships.</p> <p>25 Did there become an issue with Chris</p>	<p data-bbox="1331 1081 1429 1113">Page 72</p> <p>1 Q. Now, let's start looking into</p> <p>2 January 2006. What is your training schedule in</p> <p>3 January 2006?</p> <p>4 A. As a group, sometimes, we take --</p> <p>5 because it gets really cold in North Carolina --</p> <p>6 so in my past, I have lived in North Carolina</p> <p>7 for three and a half years, and for two years</p> <p>8 there was ice storms, not snow storms,</p> <p>9 everything was frozen. So we would take trips</p> <p>10 to warmer weather. We went to Jamaica for a</p> <p>11 week, and then from there, we went to Miami.</p> <p>12 Q. I think earlier you testified about</p> <p>13 working hard in the sun.</p> <p>14 A. Yes.</p> <p>15 Q. That would have been when you were</p> <p>16 in Miami, not North Carolina, right?</p> <p>17 A. Yes.</p> <p>18 Q. So where do you go to train in</p> <p>19 January 2006?</p> <p>20 A. Jamaica. And we trained at the</p> <p>21 national facility there in Jamaica, and we also</p> <p>22 trained in Miami.</p> <p>23 Q. Did Chris Whetstine go on those</p> <p>24 trips?</p> <p>25 A. He was supposed to. He had a ticket</p>

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<p>1 made and everything, it was confirmed by Nike 2 that he would be there, and he never showed up. 3 Q. Do you know why he didn't show up? 4 A. He still was upset about him not 5 receiving a bonus at that point in time, so he 6 stood us up. 7 Q. Now, in February of 2006, where did 8 you train? 9 A. Raleigh, North Carolina. 10 Q. Is Chris Whetstine there in 11 February? 12 A. No, he was not. 13 Q. Now, March 2006, were you training? 14 A. Raleigh, North Carolina. 15 Q. The outdoor season starts when, 16 approximately? 17 A. Relay starts probably around April, 18 like, mid April. 19 Q. Now, did you have any tweaks or 20 injuries in March of 2006? 21 A. I did, yes. 22 Q. What was the first one you had? 23 A. My knee. 24 Q. What was with your knee? 25 A. It was called plantar's knee, where</p>	<p>1 called USADA. I had my agent, I got on the 2 phone with him immediately, and his assistant 3 contacted USADA. And they said that it was okay 4 to take this shot, if it's ten days outside of 5 active competition. 6 Q. And you got that shot? 7 A. Yes, I did. 8 Q. Now, after receiving that shot, did 9 you have any other tweaks or injuries in the 10 month of March? 11 A. I did. I tweaked my hamstring. 12 Q. And I'm using the word "tweak," can 13 you sort of tell -- 14 A. I twinged it, yeah, I kind of, in a 15 way, slightly repulled it. I have always had 16 hamstring problems. 17 Q. Which hamstring? 18 A. My right hamstring. 19 Q. Did you take anything for this 20 hamstring? 21 A. I did. I took anti-inflammatories. 22 I have take an Excedrin back and body pain. I 23 have taken B12. 24 Q. Now, does Chris -- do you talk to 25 Chris Whetstine at all in March?</p>
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<p>1 the tendons in your knee will start slightly 2 deteriorating and become sore. And I needed 3 medical attention for it to get it looked at, 4 especially going into the season, so close to 5 the season. 6 Q. Who did you have look at it? 7 A. A doctor named Dr. Martini. 8 Q. Where was he located? 9 A. He was located in Raleigh, North 10 Carolina. 11 Q. Did he recommend treatment? 12 A. Yes, he did. 13 Q. What did he recommend? 14 A. He recommended a shot for my knee. 15 Q. Do you remember exactly what the 16 shot was? 17 A. I can't remember the name of the 18 shot. 19 Q. Before getting the shot, was there 20 anything you did? 21 A. No. 22 Q. Did you contact anybody about 23 getting the shot or did you have any of your 24 representatives contact anybody? 25 A. Oh, USADA. We talked to USADA. We</p>	<p>1 A. Yes. 2 Q. And does he tell you anything about 3 the upcoming season? 4 A. He does. I do not have a personal 5 relationship with Chris Whetstine. It was 6 merely just business, and he would usually call 7 me, maybe a half a month before the season 8 starts, sort of evaluate my body and make sure 9 that I was okay, going to season, so he knows 10 what to prepare for. 11 And in '06, he called me, and he was 12 very excited saying that he had some new 13 techniques, and in '05, he had a Tecar machine, 14 it's called Tecar. It's more powerful than an 15 ultrasound machine, so it works on reviving your 16 muscles and make sure that you are not sore and 17 healing pain. 18 Q. Do you know how he got that machine? 19 A. It was funded by Nike. 20 Q. Do you have any idea what it cost or 21 did he ever say what it cost? 22 A. \$4,000. 23 Q. Did he have any other techniques 24 that were going to be different for 2006 that he 25 told you about?</p>

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<p>1 A. 2006, he had acupuncture, and he had 2 also a new Voltaren cream. 3 Q. What is a Voltaren cream? 4 A. It's a cream substance, I guess, 5 that would be -- Voltaren is usually, you can 6 buy them in pills, and it's also just a cream 7 substance, same thing, anti-inflammatory. 8 Q. It's anti-inflammatory, and you can 9 get them in Europe? 10 A. Yes, you can, over the counter. 11 Q. Is Voltaren a banned substance? 12 A. No, it's not. 13 Q. Was there -- did he come to North 14 Carolina to treat you -- 15 A. Yes, he did. 16 Q. -- in March? 17 A. Yes. 18 Q. Was your hamstring 100 percent back 19 yet? 20 A. No, it was not. 21 Q. Now, we are like in April 2nd. Was 22 your hamstring 100 percent at this point? 23 A. I was able to get back to 24 practicing, but I wasn't 100 percent. 25 Q. Did you, at that point start, in the</p>	<p>1 A. Trevor Graham, Randall Evans, and 2 Me'Lisa Barber. 3 Q. Who was the last one? 4 A. Me'Lisa Barber. 5 Q. And what did you discuss about the 6 B12 shot with her? 7 A. She received it, also, a B12 shot 8 before, and I asked her about that, you know, I 9 understand it's B12, what does it do? How does 10 it act in your system? Is it okay to take? 11 Q. And B12 is just an over-the-counter 12 -- 13 A. It's a vitamin. It's a B12, you can 14 find it in foods. 15 Q. And B12 is not a banned substance? 16 A. No, not at all. 17 Q. Does there come a time when you 18 actually get a shot, a B12 shot? 19 A. Yes, it is. 20 Q. And when is that? 21 A. In March. 22 Q. March or April? 23 A. April, April 6th, or the 7th, around 24 that time. 25 Q. Who gave you the shot?</p>
Page 78	Page 80
<p>1 season, the first meet is at Mt. SAC that you 2 were going to run; is that correct? 3 A. Mt. SAC relays in California, yes, 4 sir. 5 Q. Do you know approximately when that 6 was going to be? 7 A. Mt. SAC relays? 8 Q. Yes 9 A. April 14th and 16th. 10 Q. Did you start discussing -- you 11 said you were taking anti-inflammatories. Were 12 you taking anything else to try to get your 13 hamstring to heal? 14 A. Other than Voltaren and Excedrin 15 anti-inflammatories? 16 Q. Did you discuss with anybody about 17 getting some other treatment to help your 18 hamstring? 19 A. I did. I talked to Dr. Martini 20 about B12, because orally B12 was not helping, 21 because it was in the belly of my hamstring. It 22 was deep down inside, and he recommended a B12 23 shot. 24 Q. Who did you discuss the B12 shot 25 with other than Dr. Martin?</p>	<p>1 A. Randall. 2 Q. Can you describe sort of the 3 situation when you get the B12 shot, where you 4 are and how you get it? 5 A. At my house. And they came by my 6 house to give me a B12 shot. 7 Q. Before you took, got the shot, did 8 you look at the package? 9 A. Yes, I did. 10 Q. And what did it say? 11 A. It was a white box, and it said B12, 12 and it said vitamins right across the front of 13 it. It was an unopened package. It was sealed, 14 and so was -- the needle was also sealed. 15 Q. So they showed you the needle. What 16 did the needle look like? 17 A. Just a regular needle. 18 Q. Did you -- was it normal for you to 19 get any sort of a shot by Randall Evans? 20 A. No, it wasn't. 21 Q. Had you ever gotten a shot from 22 Randall Evans? 23 A. No. 24 Q. Were you concerned about getting a 25 shot from Randall Evans?</p>

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<p>1 A. At that point in time, no, I wasn't, 2 because I talked to Dr. Martini, and Dr. Martini 3 also explained to me that Randall Evans was 4 taking classes to become more medically inclined 5 under his wing, and Dr. Martini is a great 6 doctor. He was a good doctor, and I believed 7 him as well. 8 Q. He's an orthopedic doctor? 9 A. Yes, sir. 10 Q. So you got the shot in your leg, 11 correct? 12 A. Yes. 13 Q. And which leg? 14 A. My right. 15 Q. Was it like a magic elixir, and it 16 was suddenly cured? 17 A. No, it wasn't. It actually made it 18 sore. It made it more sore than it was. 19 Q. Did you take anything after that? 20 A. Voltaren. 21 Q. Did you take anything before you 22 took Voltaren? Did you take any medicine to 23 treat the soreness prior to taking Voltaren? 24 A. Also, yeah, Excedrin, I took 25 Excedrin, back and body pain.</p>	<p>1 professional career. 2 Q. And where would you get them? 3 A. You can get them in Europe. 4 Q. Approximately when did you receive 5 the Voltaren pill from Randall Evans? 6 A. The day after I got my B12 shot. 7 MR. CAMPBELL: Who is Randall Evans? 8 A. He's an assistant to Trevor Graham, 9 assistant coach. 10 Q. Okay. So, you received the pill, 11 approximately the shot and the pill, 12 approximately a week before Mt. SAC, correct? 13 A. Yes, sir. 14 Q. You run at Mt. SAC? 15 A. Yes. 16 Q. Does your leg feel any better by the 17 time you get to Mt. SAC? 18 A. Mentally, I wasn't prepared to 19 really run 100 percent for the simple fact 20 because I was still nervous. I didn't want to 21 pull my hamstring, be in the middle of the 22 season and not be able to finish the season off. 23 I ran; we ran fairly well. We lost the race, we 24 got second, but I made it through the race 25 without any significant injuries, and I was</p>
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<p>1 Q. Okay. Did that work? 2 A. It helped out a little bit, it 3 helped out the fatigue in my body, but it didn't 4 help out the source of the pain. 5 Q. Did there come a time when you took 6 another pill? 7 A. Yes. 8 Q. And what was that? 9 A. The Voltaren pill. 10 Q. And who gave you that pill? 11 A. Randall. 12 Q. Excedrin, you took, that was like 13 over-the-counter stuff that you find in a store? 14 A. Yes, it comes in a white bottle. 15 You can get it in an airport. You can get it in 16 a convenience store, wherever. 17 Q. And Randall gave you the pill. What 18 -- how was that? 19 A. It was in a blister pack, and they 20 come in like a silver package where they have 21 all, maybe, like, 12 to 10 Voltaren pills in 22 there. 23 Q. Have you ever seen Voltaren pills 24 before? 25 A. Yes, I have taken them throughout my</p>	<p>1 ready to run for the season. 2 Q. Did you receive any treatment from, 3 or, massage therapy from Chris Whetstine at Mt. 4 SAC? 5 A. No, I didn't. 6 Q. Do you know why? 7 A. Well, after we finish running, we 8 came on the track, and usually, the procedure is 9 that we go to drug testing, and then we go to a 10 press conference, and from there, we go to Chris 11 Whetstine to get worked on, and that's usually, 12 any athlete that gets worked on, that he works 13 on. After doing those procedures, Chris was 14 nowhere to be found. 15 Q. Chris had been at Mt. SAC prior to 16 that? 17 A. Yes. 18 Q. And he didn't show up after the 19 race? 20 A. Did not. 21 Q. Did you -- did there come a time 22 when you learned why he didn't show up? 23 A. I found out that he had an argument, 24 got in a really heated argument with Trevor 25 Graham before the race. And after the race,</p>

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<p>1 Chris left, and he, I called him, and I said, 2 Why did you stand us up, man? What's going on 3 with this? And from there, he said, Oh, I had 4 to go downtown and meet somebody, went out for 5 some drinks, had to cool my head or something, 6 and then later on, he told someone else that he 7 was just driving around downtown. 8 Q. So Mt. SAC is in Los Angeles, 9 correct? 10 A. (Nod of head.) 11 Q. The next meet you are going run in 12 is the Kansas relays, right? 13 A. Yes, sir. 14 Q. Did you go straight from L.A. to 15 Kansas? 16 A. No, I did not. 17 Q. What did you do after Mt. SAC? 18 A. I had some campaigns I had to do 19 with people who I was also endorsed by. I went 20 to Minnesota to do the Early Morning Show with 21 two other athletes, and then the next day, I 22 went to Hershey's Chocolate Factory in 23 Pennsylvania. 24 Q. And so when do you arrive in Kansas? 25 A. I arrive in Kansas about 11 o'clock</p>	<p>1 -- 2 MR. COLBERT: Do you need her to read 3 back the record? 4 MR. COLLINS: I know where we were. 5 I'm just trying to frame it up. 6 Q. The Kansas relays were the 22nd of 7 April? 8 A. Yes, sir. 9 Q. Which was a Saturday? 10 A. Yes. 11 Q. And so you landed, after going to 12 Hershey and Minnesota, you landed in Kansas, you 13 said, on Thursday evening? 14 A. Thursday night, about 11 p.m. 15 Q. And what happens when you get to 16 Kansas? 17 A. Well, I mean, it takes us about, 18 almost an hour to get to the hotel, because the 19 meet is in Lawrence, and the airport is in 20 Kansas City, so by the time we get there, and 21 while in the process, en route to get into the 22 hotel, and also while in Hershey and Minnesota, 23 I'm talking to my teammates, and we were very 24 disappointed and embarrassed about our loss, you 25 know, at Mt. SAC. So we were all pumped up to</p>
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<p>1 at night, p.m. 2 Q. What day of the week? 3 A. Like a Thursday. 4 MR. COLLINS: He's been going for 5 about an hour, and I drank a large coffee. I 6 was wondering if we're going to get into the 7 Kansas stuff, which is of particular relevance 8 -- this might be a good time -- 9 MR. COLBERT: Okay, we'll take a 10 12-minute break. 11 MR. COLLINS: That would be great. 12 MR. COLBERT: So, back at 20 minutes 13 to 12. 14 MR. COLLINS: Okay. My nephrologist 15 thanks you. 16 (Brief recess taken from 11:30 to 17 11:45 a.m.) 18 MR. COLBERT: Ready? Back on the 19 record. 20 Q. Apparently, I'm actually talking 21 slow enough for a change, but if you could talk 22 a little louder, it would be greatly 23 appreciated. 24 A. Okay. 25 Q. So I think we had just left, it was</p>	<p>1 go out there and run a good time, and it was 2 pegged that Sprint Capitol would get HSI, so we 3 were ready to run. 4 Q. Who is HSI? 5 A. HSI is John Smith's camp in 6 California. 7 Q. And is there any famous runner that 8 -- 9 A. Maurice Greene. 10 Q. And he's run a race or two? 11 A. He's a very respected runner. 12 Someone I looked up to as a young athlete. 13 Q. He's won gold medals and world 14 championships? 15 A. He was a former world record holder, 16 gold medal, Olympic gold medalist, and world 17 championship and won the 200-meter world 18 championship. 19 Q. So you call your teammates. What 20 happens, is you are driving to the hotel, you 21 get to the hotel, what happens there? 22 A. I call Chris and ask him if he's 23 still up, can he work on my body? I'm feeling 24 tight, and he says, he's up, and he's willing to 25 work on me.</p>

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1 Q. What treatments do you receive from
 2 Chris that night?
 3 A. I received a combination of
 4 treatments, where they use acupuncture, he used
 5 a Tecar machine, and he also used a cream where
 6 he would lather on my body and let it sit while
 7 he would do acupuncture maybe on my shoulder,
 8 and use the Tecar machine on my other leg.
 9 Q. And what is a Tecar machine? You
 10 said it's stronger than an ultrasound, but if
 11 you could just maybe explain it to the panel.
 12 A. A Tecar machine has different wave
 13 lengths in it, and you have to have a ground, a
 14 grounder system, basically, you have to have a
 15 metal plate under your body, somewhere touching
 16 your body at all times, while the machine is
 17 being used on you, so it's a more powerful than
 18 an ultrasound machine.
 19 Q. And that's used to do what?
 20 A. Heal microfibric tears in your
 21 hamstrings or your knees, or just part of your
 22 body. It's just a quick way to rehabilitate
 23 yourself.
 24 Q. And now this stuff that you said was
 25 lathered on you, could you explain that?

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1 A. From what he told me, it was
 2 Voltaren cream that he used. He lathered it on
 3 my quads, my hamstrings, behind my knees and
 4 inside of my thighs.
 5 Q. And what do you mean by "lathered it
 6 on"?
 7 A. I guess, like, the best, like you
 8 would put peanut butter on a piece of bread, you
 9 know, you would just smear it on, and let it sit
 10 for a little while.
 11 Q. Was that the normal way? Have you
 12 ever had Voltaren cream rubbed on you before?
 13 A. Yes.
 14 Q. Was that how it would be rubbed on?
 15 A. No.
 16 Q. How did the cream, sort of the
 17 peanut buttery stuff, feel when it was on you?
 18 A. It tingled a little bit, and he said
 19 it's a new process, a new cream that he had,
 20 that he used.
 21 Q. Did the old ones give that tingly
 22 feeling?
 23 A. No, they did not.
 24 Q. How long does he work on you?
 25 A. He works on me for about an hour,

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1 take a little time to work on your whole body
 2 from one leg to the other, go from one arm to
 3 the other, back and shoulder, so it takes about
 4 an hour, I was done maybe done about 11 -- 1,
 5 1:30.
 6 Q. Then what do you do?
 7 A. I go to my room, take a shower,
 8 clean up, and get ready for bed, get ready for
 9 the races tomorrow.
 10 Q. So then the next day is Friday,
 11 April the 21st?
 12 A. Yes, sir.
 13 Q. What time do you wake up?
 14 A. We wake up about 11:00 a.m. There
 15 was no rush to get up early, got me some
 16 breakfast in my room and prepared myself for
 17 practice.
 18 Q. Did you normally eat in the room
 19 when you are on the road?
 20 A. Yeah, they used to make fun of me,
 21 because I used to always eat in my room. They
 22 called me the room king, service king.
 23 Q. The room service king?
 24 A. The room service king.
 25 Q. Why was it you would eat in your

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1 room?
 2 A. Um, I have this paranoia about
 3 people messing with my food, or, especially,
 4 from the first incident where I don't like to
 5 let people do anything orally to my food, and my
 6 water, and I don't like people touching my stuff
 7 or around me.
 8 Q. What happens after breakfast?
 9 A. After breakfast, go back to the
 10 room, put my workout clothes on and head to the
 11 track. Head to a high school track, that's at
 12 the real stadium, not just my group of athletes,
 13 but also other groups of athletes who are
 14 participating in the relay for the weekend,
 15 enter this high school track to work out.
 16 Q. Did you have lunch that day?
 17 A. Yeah.
 18 Q. Where did you have lunch?
 19 A. In my room.
 20 Q. So in the afternoon, you go to
 21 practice at the high school track, you said?
 22 A. Yes, sir.
 23 Q. Who all was at the track, was it
 24 just you, or others?
 25 A. Maurice Greene, his group, other

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<p>1 athletes, from Barton College; just a number of 2 athletes that were there. 3 Q. What did you do at the track? 4 A. We warmed up. We put our headphones 5 on. We got in the zone, and then it started to 6 rain, after we warmed up, so we weren't able to 7 do any stick passes or practices, and there was 8 a breezeway at the high school, and usually 9 Chris sets up this table at the track. And so 10 it was raining. So he got shelter, he was in 11 the breezeway, and he worked on myself, and I 12 think, after me, it was Shawn Crawford. 13 Q. Do you know approximately what time 14 of day this was? Was it late afternoon? 15 A. About five, four; four or five. 16 Q. What procedures did Chris give you 17 while you were in the breezeway? 18 A. He stretched me, flushed me, and he 19 put the cream on my body. He put it on my 20 quads, my hamstrings, when I'm at ease, and the 21 inside of my thighs. 22 Q. When you say "flush," what is that? 23 A. Flush is a -- it's basically a quick 24 rubdown to get rid of the lactic acid in your 25 body.</p>	<p>1 you? 2 A. Yes, he did. 3 Q. What did you do after the meet on 4 Friday? You went and watched the high school 5 kids run, and then what did you do? 6 A. Came back to my room, and I worked 7 on, got worked on by Chris about, maybe, 10, 8 10:30, where he stretched me out, and he flushed 9 me again. 10 Q. Did he use the cream this time? 11 A. No, he didn't. 12 Q. Did you have dinner again? 13 A. Yes, I did. 14 Q. Where did you eat? 15 A. In my room. 16 Q. What time did you go to bed that 17 night? 18 A. Probably about 12:00. 19 Q. About midnight? 20 A. Midnight. There was no rush to go 21 to sleep early. We didn't run until about 3:00, 22 4:00 in the afternoon the next day. 23 Q. Okay. So the next day is Saturday, 24 April 22nd, correct? 25 A. Yes, sir.</p>
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<p>1 Q. It's not like a flush, like you are 2 flushing a radiator, where you are putting a 3 bunch of liquids in? 4 A. No it's quickly rubbing your body, 5 like this (indicating.) 6 Q. When you say he rubbed the cream on 7 you, what sort of cream was it again? 8 A. It was the Voltaren cream. 9 Q. Was this the thick peanut buttery -- 10 A. Yes, sir. 11 Q. What did you do after he finished 12 up? 13 A. From there, I went back to the hotel 14 and I took a shower, because it was all over me. 15 It was between my legs, and behind my knees, so 16 I wanted to make sure that I could shower and 17 put some regular clothes on, and I went back to 18 the real stadium, where the high school kids 19 were running, and I participated, that's what I 20 do. I like watching kids run. I like watching 21 that kind of stuff. 22 Q. When Chris finished up on you, was 23 Trevor Graham around? 24 A. Trevor left. 25 Q. Did he go to the meet earlier than</p>	<p>1 Q. And that's the day of the Kansas 2 Relays? 3 A. Yes, sir. 4 Q. Approximately what time did you wake 5 up? 6 A. About 11:00 again. 7 Q. Another early morning. 8 Did you have breakfast? 9 A. Yes, sir, in my room. 10 Q. What did you do after breakfast? 11 A. Usually, what I do is I try to kill 12 time by charging my I-pod, watch some MTV, 13 stretch myself, talk on my phone. 14 Q. How long were you in your room? 15 A. I left the room, woke about 11, left 16 the room, maybe about 2:30. 17 Q. Did you eat lunch? 18 A. A little bit. 19 Q. Where? 20 A. In my room. 21 Q. Where did you go from your room? 22 A. From my room, I went to the track, 23 got on the bus and went to the track. 24 Q. What did you do at the track? 25 A. I got there a little early, before I</p>

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1 raced, so stood around, signed some autographs
 2 for some of the kids and watched some of the
 3 races or college runners.
 4 Q. And then what did you do?
 5 A. From there, I proceeded to warm up
 6 and do my drills with my teammates.
 7 Q. Was this a normal routine?
 8 A. Normal routine, every time I run.
 9 Q. What is the normal routine then?
 10 Please describe it.
 11 A. We do -- the track consists of two
 12 curves and two straightaways. And we would jog
 13 the straightaways, and we would do the
 14 straightaway, we would build up, each one a
 15 little bit faster. So the 6th one, you are up
 16 to a full sprint basically. So from there, we
 17 would stretch ourselves, stretch our body, and
 18 then we go into a different ballistic workouts,
 19 where it would be like A skips, where you are
 20 marching in place, B skips, where you are
 21 kicking out, and then from there, we do like
 22 30-meter drives, like, we are simulating we're
 23 coming out of the blocks, and that's basically
 24 what our drills consist of.
 25 Q. How long does a warmup take

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1 approximately?
 2 A. Takes about an hour. You don't want
 3 to tire yourself out, so you try to do it and
 4 you walk back and do it again.
 5 Q. Did Chris work on you at the track
 6 before the race?
 7 A. No, he didn't.
 8 Q. After your warmup what happens?
 9 A. Each athlete gets on the table, gets
 10 stretched by Chris, and he kind of puts you on
 11 his little massage table, and he straps one leg
 12 down, and he stretches the other leg with a
 13 ballistic stretch, and he will do it again with
 14 the other leg, he will reverse it and stretch
 15 you again, and then get ready for the race.
 16 Q. So he did stretch you before the
 17 race?
 18 A. Yes.
 19 Q. But he didn't put Voltaren creams
 20 and all that other --
 21 A. No.
 22 Q. So when you say he didn't work on
 23 you, you just mean he didn't do that stuff?
 24 A. Yes.
 25 Q. What happens then?

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1 A. We go to the track. We -- the gun
 2 goes off. Our team was doing very well. We
 3 come around the curve. Shawn hands the stick
 4 off to me, and we were victorious. We came in
 5 first. We crossed the finish line. Excited,
 6 threw the baton into the crowd, and turned
 7 around and was interviewed by the commentator,
 8 talked to the crowd a little bit, and then I
 9 walked off the track, and I was immediately
 10 stopped by a USADA official to be tested. I had
 11 no problem with that whatsoever. I signed the
 12 waiver, and as I'm getting the waiver signed,
 13 I'm talking to a USA Track and Field official
 14 named Melissa Beasley, about my race and getting
 15 ready for drug testing.
 16 Chris Whetstine comes over, kind of
 17 kneels down in front of me, while I'm already
 18 occupied talking to someone, and he pulls my
 19 pants down, and he pulls my tights up and he
 20 rubs the cream in the fashion on my quads, my
 21 hamstrings, behind my knees, and in between my
 22 legs, and he proceeds to pull my tights down a
 23 little bit and pull my pants up.
 24 Q. You were talking to Michelle --
 25 Melissa Beasley?

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1 A. Melissa Beasley.
 2 Q. Were there any reporters or anything
 3 there?
 4 A. There were some reporters standing
 5 around, but I had a press conference also. So
 6 at that point in time, Melissa was talking to
 7 some of the reporters, like, you know, if you
 8 have any questions, wait for him in the press
 9 room.
 10 Q. Was this the normal procedure for
 11 Chris to come up --
 12 A. No, not at all. This was the first
 13 time he's ever done anything like that.
 14 Q. Was Trevor Graham there?
 15 A. He was. He was standing, he was
 16 standing to my right, a little bit away about
 17 where my father is, and he yells out to Chris,
 18 What are you doing? Like that.
 19 And Chris kind of looks back at him
 20 in a shocked face, and I look at him, like, you
 21 know, this man has been, I was like, let Chris
 22 do what he has to do, because he's been very
 23 neglecting on his, on his obligation of working
 24 on me as an athlete, you know, so, you know, I
 25 was happy I won the race. I wasn't really

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1 worried that he was rubbing on me and working on
 2 me, so I was happy.
 3 Q. So, then, after you have this stuff
 4 rubbed on you, you go where?
 5 A. Go into the press conference. And
 6 the press conference consists of myself, Trevor
 7 Graham, John Smith, who is a coach and Maurice
 8 Greene, Maurice Greene is there as well, and a
 9 couple other relay athletes as well, on both
 10 sides.
 11 Q. Approximately how long is the --
 12 A. Twenty minutes or more. Usually,
 13 you have, you get asked questions all in a
 14 group, while you are up there, and then you
 15 break off, so you have more of an intimate Q and
 16 A with different reporters.
 17 Q. And where do you go from the press
 18 conference?
 19 A. After the press conference, I
 20 immediately head over to drug testing.
 21 Q. What do you do when you get to drug
 22 testing?
 23 A. Sign in, sit down for a little
 24 while, drink a Gatorade, try to fill my belly up
 25 so I can use the bathroom, which in all, while

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1 I'm in the drug testing, takes about 28 minutes.
 2 So, it takes maybe about 20 minutes to cycle
 3 through my body and have to go to the bathroom.
 4 Q. That 28-minute figure, I showed you
 5 the record or told you about 28 minutes. You
 6 wouldn't just sitting here today know 28 minutes
 7 off the top of your head?
 8 A. No.
 9 MR. COLLINS: Okay. I just wanted to
 10 make it clear. I think it's Tab 7 in the USADA
 11 brief which says he went in at 5:58 and out at
 12 6:26.
 13 Q. (By Mr. Collins) So this morning, I
 14 asked you if 28 minutes seemed about right?
 15 A. It was much longer than 15 minutes,
 16 definitely.
 17 Q. So, anything noteworthy after you go
 18 to drug testing?
 19 A. Carry through the same procedures of
 20 giving my sample, sitting down with the USADA
 21 drug testing official, checking my pH balance on
 22 my urine, closing it up, screwing the top on and
 23 closing it and sealing it for shipping. After
 24 that --
 25 Q. You just leave?

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1 A. Yes.
 2 Q. What happens after the Kansas
 3 relays? Where do you go?
 4 A. I head back to Raleigh for a little
 5 while, to work out.
 6 Q. At this time you were living in
 7 Raleigh, North Carolina?
 8 A. Yes, sir.
 9 Q. Do you recall being drug-tested on
 10 April 26th?
 11 A. Yes.
 12 Q. Who was that by, do you know?
 13 A. I would say USADA.
 14 Q. I can show you the record to refresh
 15 your recollection. That one was actually done
 16 by the IAAF.
 17 A. Okay.
 18 MR. TYGART: Is there a document for
 19 that?
 20 MR. COLLINS: Yeah, if you want to
 21 look at document 8, no, actually, document 9.
 22 MR. TYGART: Exhibit 9?
 23 MR. COLLINS: Exhibit 9, yes, it's at
 24 the bottom of that first page on USADA document
 25 0247, 4-26-06, there's one, and also, I believe,

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1 it is reflected on the chart in the stipulation
 2 which the panel received today.
 3 I'm referring to the second
 4 stipulation just for the record to be clear.
 5 MR. COLBERT: All right.
 6 MR. CAMPBELL: This attachment 1, is
 7 this part of the -- I've got mine as USADA
 8 Exhibit 29 here, the profile. Is this one --
 9 MR. TYGART: It's the same.
 10 MR. CAMPBELL: I didn't see a Bates
 11 number on file, 0296.
 12 MR. TYGART: I'm not sure what the
 13 last one is, Mr. Campbell.
 14 MR. COLLINS: There appears to be an
 15 inaccuracy on the one that's attached, this
 16 longitudinal that was put together. For some
 17 reason, the longitudinal which appears to be a
 18 summary that was put together I assume by --
 19 MR. TYGART: It was put together by
 20 us, based on the documents received from UCLA
 21 and the IAAF.
 22 MR. COLLINS: Right, if you look to
 23 the documents, that one actually occurred on
 24 4-26, not 4-28.
 25 MR. CAMPBELL: It says 4-28 on the

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<p>1 document here. 4-28-06. 2 MR. COLLINS: That, I believe, is the 3 incorrect document. If you look at the ones 4 that chart was compiled from are the documents 5 from -- 6 MR. CAMPBELL: It says Montreal 7 though. 8 MR. COLLINS: Right, it was a IAAF 9 test. 10 MR. CAMPBELL: The results were at 11 the Montreal lab? 12 MR. COLLINS: It was collected in 13 North Carolina and was shipped to Montreal, and 14 it was collected, if you look at that tab 8 -- 15 tab 9, sorry -- that's the one where it shows 16 the sample number, and says it was April 26th, 17 and I believe in the documentation behind 18 that -- 19 MR. CAMPBELL: Are you claiming that 20 an IRMS test was done? 21 MR. COLLINS: No, that was not a CIR. 22 MR. CAMPBELL: It wasn't -- just an 23 EPO? 24 MR. COLLINS: It was an EPO, and I 25 assume it was a standard scan.</p>	<p>1 made by our paralegal, she used the date from 2 the Montreal lab, not -- 3 MR. COLLINS: I don't think 4 anybody -- 5 MR. TYGART: There's no disagreement 6 on that. That sample was collected on 4-26-06. 7 MR. COLLINS: Yeah. Okay. Is that 8 clear? 9 MR. CAMPBELL: That's very clear. 10 MR. TYGART: Clear as mud. 11 Q. (By Mr. Collins) So, four days after 12 the test, after the Kansas Relays you are tested 13 in North Carolina, where do you go next? 14 A. Penn Relays. 15 Q. Where are the Penn Relays? 16 A. The Penn Relays are held in 17 Philadelphia. 18 Q. Do you know the date of the Penn 19 Relays? 20 A. Not off top of my head, sir. 21 Q. If I said it was the week following 22 the April 22nd, so April 29th? 23 A. Yeah, that would be, that would be 24 correct. They usually have a relay every 25 weekend.</p>
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<p>1 MR. TYGART: Well, let me try to 2 clarify this. We have got USADA 0247, which is 3 found in Exhibit 9 of USADA's documents, which 4 is an e-mail from Thomas Capdevielle from the 5 IAAF to Linda Barnes, where it identifies an 6 out-of-competition test of 4-26-06, and the 7 sample number is 394995. Do you see that, John? 8 MR. COLLINS: Yeah. 9 MR. TYGART: And then if you look at 10 the documents that were sent to the panel 11 Friday, in response to their request for the 12 longitudinal study, if you look at USADA 0304, 13 there's a document from the Montreal lab that we 14 also received from the IAAF, that has sample 15 Number 394995, which is the same sample number, 16 but it says date 4-28-06. So I'm assuming 4-28 17 is the date that Montreal received it, and 4-26 18 is the date that IAAF collected it. 19 MR. COLLINS: Right, in fact, I think 20 I can clarify the discrepancy. If you look at 21 USADA 0251, you will see testing information 22 collection date 26 April, 2006, and then the 23 next column over, it says reception date 28, so 24 that is in fact what happened. 25 MR. TYGART: So when the chart was</p>	<p>1 Q. Do you run at the Penn relays? 2 A. Yes, sir. 3 Q. How many events do you run? 4 A. Between two to three. 5 Q. While you were at the Penn Relays, 6 do you receive -- for lack of a better term -- 7 the peanut butter treatment from Chris 8 Whetstine? 9 A. No. 10 Q. Your relay wins at Penn? 11 A. Yes, we do. 12 Q. And you are drug-tested? 13 A. Yes. 14 Q. After winning? 15 A. Well, that's the thing, we won the 16 race, and then 15 minutes later, an official 17 came up to me, and was like, well, you don't 18 have to get drug-tested, and I was like, okay, 19 because it showed it on the big screen that 20 Shawn Crawford, who was third leg, completely 21 ran on his own, so we were DQed, so I understood 22 that. I accepted that. I was okay. So they 23 grabbed the other second-place relay anchor, and 24 proceeded to go drug-test him. 25 Now, 20 minutes later after that, I</p>

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<p>1 had a USADA official and a USA Track and Field 2 official come up to me and say that they 3 reinstated us as the winners, and I had -- time 4 was running out for me to be drug-tested. And 5 at that point in time, I have no -- I have 6 nothing against getting drug-tested at all -- 7 but at that point in time, that's when I really 8 felt I was being targeted or something was up. 9 I mean, we clearly had DQed.</p> <p>10 Q. But you were reinstated, and you 11 went to drug testing?</p> <p>12 A. Went to drug testing. I told the 13 official that it was very unprofessional of them 14 to do that. I mean, we lost the race, but I had 15 no arguments with them, and I proceeded to give 16 them a sample without any arguments.</p> <p>17 Q. And that test result was negative?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And the record will show that that 20 was when he got a CIR test also?</p> <p>21 MR. CAMPBELL: Which one, so what 22 date was that on this?</p> <p>23 MR. COLLINS: That would be the 4-29 24 date.</p> <p>25 MR. CAMPBELL: I don't want to ask</p>	<p>1 refer -- I think he got it accurate -- but the 2 document that's been provided is Exhibit 8, 3 USADA 001, that identifies the event, if it was 4 at an event, and OOC, if it was an 5 out-of-competition test, and then it says full 6 screen, and then if any additional CIR EPO is 7 performed, it has it clearly identified for the 8 USADA test.</p> <p>9 MR. COLLINS: Right. That's the 10 information I used to create that one.</p> <p>11 MR. TYGART: You lost me a little bit 12 on some of the dates.</p> <p>13 MR. COLLINS: Absent a brain cramp on 14 my part, that was certainly what I was trying to 15 import.</p> <p>16 MR. COLBERT: These are -- just so I 17 understand this -- going back and forth, on 8, 18 you have got 001 is a list of USADA test 19 results, what I think has been marked as 0304, 20 Attachment 1, is the IAAF and USADA tests 21 combined, so these will be slightly different, 22 won't they?</p> <p>23 MR. COLLINS: Yes, as I understand 24 it, the more of the denser or the I-chart of the 25 Excel spreadsheets is a combination of the tests</p>
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<p>1 too much, but there were a number of CIR tests, 2 you said. Which ones were they on?</p> <p>3 MR. COLLINS: The CIR tests, if you 4 are looking at this chart, are the January 21, 5 2005; April 26th, 2006 -- or April 22nd, sorry, 6 2006 -- that's the Kansas rerun, the 4-22-06, 7 4-29-06 is the Kansas Relay. 5-18, 2006, June 8 5th, 2006, June 23rd, 2006 and November 9th, 9 2006.</p> <p>10 MR. COLBERT: Those are all CIRs?</p> <p>11 MR. COLLINS: Those are all CIRs. 12 And out of that, since we have it 13 here and I have it in front of me, I was just 14 going to note that four of those are out of 15 competition, the January 25, 2005 is out of 16 competition, the 5-18 --</p> <p>17 MR. CAMPBELL: Slow down.</p> <p>18 MR. COLLINS: The January 25 is out 19 of competition, 4-22-06 is in competition, 20 4-29-2006 is in competition, 5-18-2006 is out of 21 competition; June 5th, 2006 is out of 22 competition; June 23rd, 2006 is in competition, 23 and then the last, obviously, the 11-9, November 24 9th, 2006 is out of competition.</p> <p>25 MR. TYGART: And I would just</p>	<p>1 that are at tab 8 and at tab 9 in USADA, because 2 Tab 8, I believe, is the USADA test, and tab 9 3 is the IAAF test.</p> <p>4 MR. CAMPBELL: So none of the IAAF 5 tests did a CIR?</p> <p>6 MR. COLLINS: I don't think they did 7 a CIR.</p> <p>8 MR. TYGART: No.</p> <p>9 MR. COLLINS: I think we did say that 10 this chart is missing one of the IAAF ones. 11 Remember, we talked about that at the beginning.</p> <p>12 MR. CAMPBELL: Which one?</p> <p>13 MR. COLLINS: It's missing the world 14 record May 12th.</p> <p>15 MR. CAMPBELL: And that was May 12th, 16 2006.</p> <p>17 MR. COLLINS: May 12th, 2006 in Doha, 18 Qatar.</p> <p>19 MR. CAMPBELL: And so that was 20 negative.</p> <p>21 MR. COLLINS: It was a negative test, 22 it was an EPO in a normal screen.</p> <p>23 MR. CAMPBELL: No CIR.</p> <p>24 MR. COLLINS: I don't believe -- I'm 25 not aware of any CIR.</p>

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<p>1 MR. TYGART: We're not saying no CIR 2 was done on either one of the tests, but -- 3 MR. COLLINS: That's my 4 understanding. They haven't indicated. 5 MR. TYGART: We can -- if it would 6 make it easier for the panel, we can have this 7 Attachment 1, do in-comp, out-of-comp, who 8 collected it, and put a check for CIR or not. 9 MR. CAMPBELL: That would be great. 10 MR. TYGART: All right. On the next 11 break, I will call my secretary, and see if she 12 can handle that. 13 MR. COLLINS: I will sheepishly admit 14 that would exceed my Excel -- 15 MR. COLBERT: If I could go back for 16 a minute to the 0304, this is not with regard to 17 whether it's IAAF or USADA, but I notice a CIR 18 test January 21 of '05, and there's a series of 19 tests and the next one is over a year later, and 20 then there are immediately following 4-22, there 21 are five additional CIR tests over this next 22 few months. Now, I guess somebody could address 23 is there a particular reason why the sudden 24 increase in CIR tests were being done here, when 25 there were large gaps in time, and all of a</p>	<p>1 of the overall strategy. 2 MR. COLBERT: If we take out the 3 November, if I just look at April through June, 4 a period of under two months, well, just about 5 exactly two months 4-22 to 6-23, the athlete was 6 tested 1, 2, 3, 4, 5, 6, 7 times. Five of those 7 times CIR tests, and of those, 1, 2, 3, it looks 8 like three of them were OOC, out of competition. 9 MR. TYGART: Yeah. 10 MR. COLBERT: And two of those were 11 CIR. 12 MR. TYGART: Yeah. 13 MR. COLBERT: And yet for the 14 period -- just so I understand -- from January 15 21, 2005, through 4-22-06, a period of over a 16 year he was tested once? 17 MR. TYGART: I think that's right. 18 MR. CAMPBELL: You are saying, for 19 example, at the Olympic games, there wouldn't be 20 a CIR test? 21 MR. TYGART: Once by us. 22 I don't know what it would have 23 been. 24 MR. COLBERT: That would be '04 then. 25 I'm just going January 1, '05, because I think</p>
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<p>1 sudden, virtually every single time he was 2 tested, he was tested in CIR. 3 MR. COLLINS: They would have to say 4 why that happened. The stipulation was that, at 5 least with respect to the 4-22, that one was a 6 normal. I can't explain it. 7 MR. TYGART: I think if you look at, 8 you know, there are three, four in-comp, is it 9 Kansas, Penn's, Nike, Nationals, so there's four 10 in-comp tests by USADA. 11 MR. COLBERT: And you are saying 12 those were in tests, CIR would be a standard 13 test for in-comp -- 14 MR. TYGART: It's not necessarily 15 standard. It has to be uniquely ordered or a 16 strategy put into certain events, certain 17 sports. But all of those fell within those 18 selections for those events, and then there were 19 the out-of-comps, I guess, from 5-18 and 6-5 20 that we performed, and again, leading into a 21 Nationals. I would appreciate some respect for 22 not compromising our testing program, but having 23 an EPO and a CIR leading into a national event 24 like that would be something that's fell through 25 in our test issue vision plan, and would be part</p>	<p>1 the only thing we've talked about here today is 2 starting January 1, '05, when he had a CIR test. 3 MR. CAMPBELL: When he won a gold 4 medal, where that would test be? 5 MR. COLLINS: I think that's an IOC 6 test, and that one might not have been -- we 7 contacted the IAAF, but we don't think we did a 8 similar contact to the IOC. 9 MR. TYGART: Yeah, that's right. 10 MR. COLLINS: I think it's safe to 11 say that more than roughly two years after the 12 event that test came back negative. 13 MR. TYGART: Again, and I will 14 request certain nondisclosure on some of the 15 strategies behind testing, but I think, you 16 would see, particularly, in a sport like Track 17 and Field, periods where doping risk is not 18 necessarily at its height, less testing during 19 those periods, and more leading up to particular 20 events like Nationals, World Championships, 21 Olympic Games, where the focus would increase. 22 MR. COLBERT: If I understand it 23 correctly, then, though, looking at this, then 24 the athlete participated in a minimum at the, 25 between the dates we're talking about, the</p>

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<p>1 minimum that Reebok ran for the U.S. 2 Junior/Senior National Championships, so, there 3 are three tests, championships, not tested CIR. 4 Anyway, just -- that's okay. 5 MR. TYGART: It is what it is. And 6 one other factor, you know, that would be part 7 of our consideration was there was a world 8 record set, right at that point, and that, you 9 know, is obviously under international standards 10 and our practice, a key point of a risk of 11 potential doping, and we would respond to that, 12 to the extent we needed to. 13 MR. CAMPBELL: But it wasn't as a 14 result of the April 22nd, 2006 testing? 15 MR. BOCK: Just the last of those, 16 the last four or after the world record, the 17 last four CIRs, but not the 22nd or the 29th. 18 MR. CAMPBELL: But my question was -- 19 and maybe it shows my ignorance more than 20 anything else -- it seems to me you could be 21 tested because you knew you had a previous 22 positive test, but these other tests aren't the 23 result of your knowledge of any other previous 24 positive tests. As I understand it, these were 25 just part of your practice, whatever that is,</p>	<p>1 selected for testing at the Kansas Relays, 2 because his relay, in accordance with our normal 3 routine selection criteria, paragraph 10, 4 because his relay won first-place, and he was 5 the anchor leg on that first place relay team. 6 MR. COLLINS: That has to do with the 7 Kansas one. There's no stipulation as to the 8 other ones. I don't want to get into an 9 argument now, necessarily, but I would note that 10 as you pointed out, that if they were doing it 11 with respect to World Championships and 12 Nationals, that he did win double in, double 13 gold in 2005, and World Championships, he won 14 double at the Nationals, and there were no CIRs 15 then. And the record speaks for itself, then, 16 as to when they ran it. 17 MR. COLBERT: Yeah. 18 MR. CAMPBELL: I'm just trying to 19 figure out, okay, when did you guys realize he 20 had a positive test? What date? 21 MR. TYGART: From? 22 MR. CAMPBELL: There's only one 23 positive test that I know of. 24 MR. TYGART: I thought you were 25 referring to his amphetamine violation.</p>
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<p>1 which we will remain, which will remain 2 confidential, is that right? 3 MR. TYGART: Yeah. 4 MR. COLBERT: Excuse me. Unless 5 someone is going to testify as to what the 6 policies or practices are, I don't want to make 7 any assumptions on the record as to what the 8 reasons for these was. I don't want to make any 9 assumptions unless somebody is going to testify 10 as to the reason for it. 11 MR. CAMPBELL: But my question was, 12 the reason wasn't for result of this positive 13 test on April 22nd. 14 MR. COLBERT: Do we know that? 15 MR. CAMPBELL: He just said it. 16 MR. COLBERT: I didn't think I heard 17 him say that. 18 MR. TYGART: Part of, in an effort 19 not to have to put Kate up to fully disclose all 20 of our strategies for testing that ultimately 21 may end up being on record, that I'm sure will 22 be shared amongst the defense counsel bar and 23 force you all to put some of that into a 24 decision, we entered a stipulation, and I think 25 the stipulation is pretty clear that he was</p>	<p>1 Well, I assume, we got it reported 2 at least on -- 3 MR. COLBERT: Would you tell us what 4 exhibit you were looking at? 5 MR. TYGART: I'm not sure it's the 6 right one, it's 5 A, but it was reported to us, 7 June 13th, 2006. 8 MR. CAMPBELL: So somewhere in 9 between June 5th, and June 23rd test that you 10 have got notes of it? 11 MR. TYGART: Yeah. 12 MR. CAMPBELL: When you say you got 13 notes, that's your first -- that's when you 14 would first get notes? 15 MR. TYGART: That's when it was 16 reported as a positive to us. I mean, if there 17 was something -- 18 MR. CAMPBELL: Did you get a 19 telephone call saying hey -- 20 MR. TYGART: We probably did. Before 21 it came. 22 MR. CAMPBELL: Would it have been 23 before June 6th? 24 MR. TYGART: Chris, I really don't 25 offhand know the exact dates.</p>

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<p>1 MR. COLBERT: Can I ask, Mr. Tygart, 2 where are you reading on Exhibit 5 A? 3 MR. TYGART: Well, I just looked at 4 the date of the first page. 5 MR. COLLINS: At the upper, first 6 page, it says 6-13 on it. 7 MR. COLBERT: What I was looking at 8 was the rest of the documentation, because 9 there's nothing else in the rest of that 10 documentation, other than that first page that 11 would indicate when any transmission of 12 information occurred or am I incorrect on that? 13 MR. TYGART: Again, I think that's 14 the date I'm going to go with, because that's 15 the date it was reported to us. 16 MR. COLBERT: Can I ask what the 17 significance of May 8th, '06 is that appears on 18 a number of these documents? 19 MR. TYGART: Where is that date? I'm 20 sorry. 21 MR. COLBERT: In example, on the 22 margin of Page 9 of Exhibit 5 A, there's a note, 23 that looks like someone's initials, 5-8-06. 24 MR. TYGART: Direct me to that page, 25 if you would, Mr. Chairman.</p>	<p>1 MR. CHERIS: Page 15, a later dated 2 31 May, 2006. 3 MR. COLLINS: Yes, and if you look at 4 the last one, Page 25, it's June 13th, it's 5 substantially similar. 6 MR. CHERIS: One is 87 MO5 A, and one 7 is 87 MO5, as far as the drug testing report, 8 that appears to otherwise say almost the same 9 thing. The data is slightly different. 10 MR. TYGART: This may have been -- I 11 have to go back and check, but this may have 12 been a screen result. They do a screen result, 13 and then they do an A confirmation. 14 MR. COLLINS: This appears to be a -- 15 that's a CIR result. 16 MR. TYGART: Right. But they would 17 do the CIR method once, and then do it again for 18 the A confirmation, so I'm assuming that's what 19 that is. 20 MR. COLLINS: But given that that's 21 addressed to Terry Madden, May 31st, it would 22 seem that we're trying to establish when it got 23 to USADA. 24 MR. TYGART: Yeah, I guess, if we, 25 assuming this came to us at the time, May 31st,</p>
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<p>1 MR. COLBERT: If you go to 5 A, and 2 you look at the results here, and if you look at 3 the upper margin, you will have pages -- they're 4 the actual documentation, Page 4, Page 5, Page 5 7. 6 MR. TYGART: Those are laboratory -- 7 for example, you can look at Page 7 in that A 8 pack, and you have got a chain of custody with a 9 date. 10 MR. COLBERT: Complete with, for 11 example, there's a date here, I'm sorry, there's 12 nothing indicating -- across the line -- other 13 than at the end, there's a 5-8-06 date, there's 14 a 5-8-06 date on Page 9, and there's no 15 indication what those are for. 16 MR. BOCK: There's an indication on 17 Page 7, that there was some, apparently, some 18 analysis done on that date. 19 MR. COLBERT: But it doesn't say what 20 it is. 21 MR. BOCK: It has the initials on the 22 first. 23 MR. COLLINS: Actually, on this 24 exercise, I just noticed something. If you 25 look, on the top, they have a Page 15.</p>	<p>1 then we received some report on May 31st, 2006. 2 MR. COLBERT: But correct me if I'm 3 wrong. If you're talking about doing internal 4 screening at UCLA, they would not report the 5 screen, they would report the final A sample 6 results to you. 7 And can you explain, or somebody 8 explain the difference in the analytical data 9 between the May 31, and the June 13th dates? 10 I'm assuming they're both still the 11 A sample? 12 MR. TYGART: I would have to check on 13 it. I don't know, I just don't know now looking 14 at it, what's the accurate response. I mean, on 15 the analytical data, suggests that they're well 16 within any reasonable level of uncertainty and 17 that's probably exactly what you would expect, 18 so I don't think there's any issue with respect 19 to the analytical data. 20 But the question, I think, is what's 21 the date of -- If, in fact, USADA received this 22 transmission on May 31st or not. I don't see 23 any fax lines; although, I don't see fax lines 24 on the June 13th letter either, so we will have 25 to --</p>

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<p>1 MR. CHERIS: We have one is in a 2 section called A Sample Screening Documentation, 3 and one is A Sample Confirmation document. 4 MR. TYGART: Bill makes a good point. 5 There is not a cc. One other difference that we 6 noticed from the June 13th to the May 31st 7 document is there's not a cc to the World 8 Anti-Doping Agency, that happened on the June 9 13th letter, so maybe it was a refax to cc the 10 World Anti-Doping Agency, which is normal 11 protocol, and that wasn't done in the first, and 12 it's not a refax, it's obviously a different -- 13 MR. CHERIS: You have a screening 14 documentation, is it normal that a screening 15 documentation is sent to USADA rather than the 16 confirmation documentation? 17 MR. TYGART: We wouldn't normally 18 receive -- it's -- we wouldn't normally receive 19 a screen document, I wouldn't think. 20 MR. COLLINS: That's not -- all the 21 negatives are always just a screen. 22 MR. TYGART: Right. I mean outside 23 of that. 24 MR. COLLINS: Right. I think it 25 might be safe to say, a CIR positive is a rare</p>	<p>1 would encourage a lab, if they were going to 2 rely on a negative T/E as the screen and then 3 have a single run of a positive CIR, I would say 4 let's do another run on the CIR to confirm it. 5 MR. COLLINS: It's my understanding 6 that this was one that was told to go straight 7 to CIR originally. 8 MR. TYGART: Right. 9 MR. COLLINS: So it wasn't based on a 10 negative T/E screen that went to the CIR. 11 MR. TYGART: Right. 12 MR. COLLINS: They were going CIR the 13 day this one showed up. 14 MR. TYGART: Right. 15 MR. COLLINS: What got us into this 16 debate, I would note that there isn't any 6-5 17 out-of-competition test. It's a CIR. 18 MR. TYGART: So the to-do list, I 19 will for sure get you an updated list of the 20 attachment. 21 EXAMINATION (cont'd.) 22 BY MR. COLLINS: 23 Q. I think we were just talking 24 about why -- we're back to the witness -- I 25 believe we were talking about the Penn Relays,</p>
<p>1 enough thing, that we might not be able to say 2 what would be normal or not normal, because I 3 don't think there's many of them. Just because 4 of the volume of the tests, not many of them are 5 positive, so I would assume it's very, very 6 small. You would have to confirm that. 7 MR. TYGART: Right. Yeah, I mean, we, 8 to be -- I don't know for sure. I will have 9 to look. We very well could have got this May 10 31st, and said, Hey, is that the final A 11 confirmation? And got the response, well, yeah, 12 that's it. Well, did you do it again, to 13 confirm it? Well, no, we'll go back and confirm 14 it. I just don't recall. It just hasn't been a 15 relative point for those purposes. 16 MR. COLBERT: Do they retest if you 17 get a positive on the screen, does the lab 18 retest the A sample to confirm it before 19 reporting it out? 20 MR. TYGART: Well, again, the CIR, as 21 John indicated, is a CIR with a negative T/E is 22 -- this may have been the first one, we have had 23 one other, I believe, in the Hartman case -- 24 where, again, it just wasn't an issue before the 25 panel. But yeah, in an abundance of caution, I</p>	<p>1 correct? 2 A. Yes, we just finished, just finished 3 getting selected for drug testing. 4 Q. And you did not receive, prior to 5 the drug testing there, the gooey peanut buttery 6 consistency slathering or lathering? 7 A. No, sir, because I had other races 8 to run after that one. 9 Q. Now, I want to call your attention 10 to the week between Kansas and Penn. 11 As part of your training regimen, 12 you were very particular about what you eat, 13 correct? 14 A. Yes, sir. 15 Q. Now, did you also take supplements? 16 A. I did. I took multivitamins and 17 protein shakes. 18 Q. And how would you get those? 19 A. Purchased them myself from either 20 Vitamin World or GNC. 21 Q. Why would you do that? 22 A. Because you are putting your body 23 through such a rigorous performance, that it 24 would break down, actually, so I mean I would 25 take Myoplex, which is a morning shake, I would</p>

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<p>1 take like Mega Men, which is a multivitamin that 2 you can buy over the counter from GNC or Vitamin 3 World. 4 Q. And you would do this personally? 5 A. Yes, sir. 6 Q. Why would you do it personally? 7 A. I didn't need anybody else touching 8 my vitamins, or my Myoplex or anything else, I 9 would buy for myself. I did it -- it didn't 10 feel right. 11 Q. Now, this was part of your regular 12 routine? You would take these every day? 13 A. Yes, sir. 14 Q. What would you do when you traveled? 15 A. Usually, they come in big 16 containers, so I would siphon it off into 17 smaller Tupperware containers, and then I also 18 put them in a carry-on bag, and I would lock the 19 carry-on bag, so I would only have the key, so 20 it wouldn't be tampered with. 21 Q. And you would take those with you 22 when you would travel, and where would you leave 23 them when you were in your room? 24 A. Sometimes, only, so, if I felt 25 comfortable in the situation, then, I would take</p>	<p>1 you recall? 2 A. 100-meters. 3 Q. Were you tested in Osaka? 4 A. No, I was not. 5 Q. Where do you go from Osaka? 6 A. From Osaka, I go to Qatar, where I 7 break the world record. 8 Q. Where were you -- you set the 9 record, was it 9.77? 10 A. It was 9.76, and don't ask me why, 11 it takes officials of timing to take a whole 12 week, six days to give me a phone call and tell 13 me that they rounded the time up to 9.77. But 14 it was, it was a moment that I will always live 15 with, regardless of the situation, because it 16 was something special to me. 17 It was something that no matter what 18 you do for whatever sport as a youngster, you 19 want to be the best in your sport. You want to 20 be the world record holder. You want to be the 21 Olympic gold medalist, and you strive for those 22 things. And I had a checklist throughout my 23 whole career of how I wanted to do things 24 personally. And at that point in time, 25 everything was going according as planned, you</p>
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<p>1 them, I wouldn't take them, but if I had like a 2 key and a lock, like I usually would, then I 3 would leave them. 4 Q. Do you recall purchasing any 5 different supplements between Kansas and Penn? 6 A. No. I have always had the same 7 supplements since 2003. 8 Q. Do you remember running out that 9 weekend and having to buy a new bottle? 10 A. No. 11 Q. Do you remember any particular 12 difference between the lead-up to Kansas and 13 through the test in Kansas and the difference in 14 talking about your diet or your supplements 15 between Kansas and Penn? 16 A. Not at all. Usually, that, it all 17 works as clockwork. I would have supplements 18 that would last me all the way to, maybe, my 19 second individual race, and then, from there, I 20 would come back home, and I would restock on my 21 supplements. 22 Q. Now, we're into May 2006. Where do 23 you run? 24 A. May 2006, Japan, Osaka. 25 Q. And what races do you run there, do</p>	<p>1 know, and I was achieving my goals, and the next 2 step was going to be personally starting a 3 family, and basically, settling down and maybe 4 even become an agent. 5 Q. Now, was Chris in Qatar? 6 A. Yes, he was. 7 Q. Did you receive the -- what 8 treatments did you receive from him there? 9 A. None, because I was whisked away by 10 the media, and IAAF drug testers to the drug 11 testing room. And he repeatedly tried to get 12 into the drug testing room to work on my body, 13 abnormally, tried to get into the drug testing 14 room. He was trying to carry his table into the 15 room. 16 Q. And then you said you had to go? 17 A. Well, I had obligations to fulfill 18 in Indianapolis that my agent, Renaldo Nehemiah 19 had set up promptly after I broke the world 20 record, to campaign and promote the Nationals 21 that were going to be held later on that year. 22 Q. And again, the drug test was 23 negative after the world record? 24 A. Yes, sir. 25 Q. So May 12th, you fly back from Qatar</p>

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1 to the states. You go to Indianapolis.
 2 Now, in May 18th, 2006, you are
 3 drug-tested again?
 4 A. Yes.
 5 Q. Did you receive -- this is an
 6 out-of-competition test?
 7 A. Yes.
 8 Q. Did you receive any of the
 9 treatments from Chris Whetstine at or around the
 10 time of that drug test?
 11 A. No, I don't really see Chris
 12 Whetstine that much outside of competition.
 13 Q. And the next time you run is May
 14 28th, 2006; is that right?
 15 A. Yes, sir.
 16 Q. And where is that?
 17 A. Eugene, Oregon.
 18 Q. And what meet is that?
 19 A. Prefontaine.
 20 Q. Do you receive treatment from Chris
 21 Whetstine there?
 22 A. No.
 23 Q. Do you recall if you were
 24 drug-tested at that meet?
 25 A. Yes, I was.

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1 Q. Just since we went through that,
 2 actually, it's the one in-competition, it's not
 3 a CIR during that period of time.
 4 June, 2006, where do you run?
 5 A. I run in New York. I have done the
 6 Reebok Classic.
 7 Q. In New York?
 8 A. Yes, sir.
 9 Q. Do you get drug-tested at the event?
 10 A. No, I do not get drug-tested at the
 11 event, but I get drug-tested two days later.
 12 Q. Where are you when you get tested?
 13 A. I'm still in New York City. I opted
 14 to stay in New York, because I was born in
 15 Brooklyn, and I still have a lot of family
 16 members that I don't get to see often. And
 17 actually coming off of my world record and such
 18 a victorious race there in New York, I wanted to
 19 stay and spend time with them because I usually
 20 don't get a chance to do that. And I got a
 21 phone call from Trevor telling me that the drug
 22 testers are looking for me in Raleigh.
 23 And at that point in time, I asked
 24 him, What's the best thing for me to do? And he
 25 says, call them back, because they called me.

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1 and tell them that you are still in New York,
 2 and have the drug testers sent there
 3 immediately. So I did that, and within the
 4 hour, a drug tester was sent to my hotel room
 5 where I stayed at in New York City.
 6 Q. And that test was negative?
 7 A. Yes, sir.
 8 Q. And that test was another CIR, I
 9 think that was the one we just mentioned in that
 10 window.
 11 Approximately, when do you learn
 12 that the test results from Kansas had come back
 13 positive?
 14 A. On the 15th, around that time.
 15 Q. Of June?
 16 A. (Nod of head.)
 17 Q. How is it you learned?
 18 A. My agent, and my parents called me
 19 on a three-way call, when I'm at home in
 20 Raleigh, North Carolina.
 21 Q. How did you receive that news?
 22 A. It was it was a nightmare that I
 23 live again, from my first situation, and I
 24 found, I prided myself, I would never put myself
 25 in that situation again, and it happened to me

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1 again, and I remember the only thing that I kept
 2 saying over and over was that my life was over.
 3 I didn't know what to do. I mean, because,
 4 running is, running is what I love. I love to
 5 run. And I never would do anything like that,
 6 because I know I have the support of my family
 7 and my friends.
 8 Q. Did you have any idea what caused
 9 the positive test at that time?
 10 A. No, I did not.
 11 Q. So these positive results came as a
 12 surprise to you?
 13 A. Yes, sir.
 14 Q. What did you do after learning of
 15 the initial shock? You are in Raleigh, correct?
 16 A. Yes, sir.
 17 Q. It's June 15th. When are the
 18 Nationals?
 19 A. The Nationals is probably like a
 20 week away.
 21 Q. And those were going to be in
 22 Indianapolis?
 23 A. Yes, sir.
 24 Q. Do you know approximately when you
 25 go to Indianapolis?

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<p>1 A. I don't know the exact date, when I 2 get there. I want to say around the 19th. 3 Q. After learning these results, did 4 you start reliving all your steps to try to 5 figure out how this could possibly happen? 6 A. Definitely, from the moment I had 7 that phone call. 8 Q. And what were you able to come up 9 with? Did you have any injections? 10 A. Not since earlier in the year. 11 Q. Did you ever take a banned substance 12 that you knew about? 13 A. The only substance I have taken, I 14 have taken them, almost for three years, since I 15 first started professional track. 16 Q. Those, the supplements you were 17 taking weren't banned substances? 18 A. No, not at all. 19 Q. Did you take any oral pills that 20 would have led to this? 21 A. No. 22 Q. Did you take any inhalers? 23 A. No, sir. 24 Q. Any drops? 25 A. No, sir.</p>	<p>1 trying to ensure that if he was a suspect, we 2 could somehow catch him. So the only people 3 that knew about it was my mother, my father, my 4 agent and Trevor. 5 Q. And you had a lawyer at that time, 6 too, correct? 7 A. Yes, I did. 8 Q. It wasn't me, though? 9 A. No, it was Cameron Myler. 10 Q. And she knew about the positive 11 test? 12 A. Yes. 13 Q. Did you take any actions to see if 14 you could discover evidence with respect to 15 Chris Whetstine at that point? 16 A. I did. I took action on my own 17 accord, and I hired private investigators to 18 follow Chris and question Chris. 19 Q. Where? 20 A. I had one investigator at Nationals. 21 Q. Let's deal with that one first. 22 A. Okay. 23 Q. So you hired private investigators 24 to follow Chris and see what they could learn in 25 Indianapolis?</p>
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<p>1 Q. Did there come a time when you 2 believed how you think this substance would have 3 entered your body? 4 A. Yes. There was a time when I 5 eliminated all those factors, and the only way I 6 could come up with it is that it had to have 7 been placed on my body somehow. 8 Q. And in and around Kansas when the 9 test happened, who rubbed things on you? 10 A. Chris Whetstine is the only person 11 that touched my body while I'm in competition. 12 Q. Nobody else touched it? 13 A. No. 14 Q. Did anybody else rub a substance on 15 you? 16 A. No, sir. 17 Q. And you didn't take anything through 18 injection? 19 A. No. 20 Q. And you didn't take anything orally? 21 A. No, sir. 22 Q. So you go to -- did you discuss the 23 possibility that something must have been rubbed 24 on you with anybody else? 25 A. It was kept quiet, because we were</p>	<p>1 A. Yes. 2 Q. What happened when you get to 3 Indianapolis? 4 A. He starts acting weird, Chris does. 5 Q. How is that? 6 A. Well, he only came out to the track 7 one time, the whole time, and usually, when you 8 were at a National Championship, you are there 9 for almost five days or more. And he came out 10 to the track, like, the first day, worked on all 11 the athletes, and then he claimed that he got 12 sick from Shawn Crawford, who was not sick, 13 because Shawn Crawford competed in that event. 14 Q. So did you see Chris Whetstine 15 around, outside much? 16 A. No, sir. 17 Q. Do you know where he was? 18 A. He was in his room. 19 Q. Did he come out of his room? 20 A. The only time he came out of his 21 room was the night of the last competition, and 22 he came out, to go drinking with his girlfriend 23 and go clubbing, after he said that he was 24 already sick. 25 Q. And did anything happen that night?</p>

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1 A. He got in a fight with a Nike
 2 representative, and his name was Llewellyn
 3 Starks.
 4 MR. COLBERT: Excuse me, I couldn't
 5 quite hear you.
 6 A. He got into an altercation, a fight,
 7 with a Nike employee named Llewellyn Starks.
 8 MR. CAMPBELL: How do you spell that?
 9 Llewellyn?
 10 MR. COLLINS: L-l-e-w-e-l-l-y-n,
 11 Llewellyn. Justin wasn't there at the fight,
 12 and there's currently a lawsuit between Chris
 13 Whetstine and Llewellyn Starks, and -- I was not
 14 planning on calling Llewellyn Starks.
 15 MR. CAMPBELL: Do you have a copy of
 16 the lawsuit?
 17 MR. COLLINS: There was supposed to
 18 be -- there was supposed to have one faxed to me
 19 here today.
 20 MR. BOCK: I actually have a copy.
 21 MR. CAMPBELL: You do? Can we have a
 22 copy of it?
 23 MR. BOCK: Yeah.
 24 MR. COLBERT: We can do it at a
 25 break, with that machine outside.

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1 MR. COLLINS: He also sued Nike in
 2 that lawsuit, actually, Nike's attorney -- I
 3 misspoke -- Nike's attorney was supposed to send
 4 me a copy.
 5 MR. CAMPBELL: Do you have a suit
 6 against Nike?
 7 MR. COLLINS: Chris Whetstine sues
 8 Nike and Llewellyn Starks.
 9 MR. CAMPBELL: Same suit?
 10 MR. COLLINS: Same suit.
 11 Q. Is there a time prior to running the
 12 race that you go into Chris Whetstine's room
 13 while you were still in Indianapolis?
 14 A. While I'm still training, I wasn't
 15 in competition just yet to run, I went to his
 16 room twice. The first time I went to his room,
 17 and he used the techniques on me. And then the
 18 second time, as, actually while I was in that
 19 room the first time, I felt like I got a moment
 20 of clarity, because that's what I already
 21 learned about my positive test, and I thought
 22 about it. I was like, he's using these
 23 different kind of techniques on me all at once,
 24 you know, acupuncture, Tecar machine, the
 25 creams. And he's massaging me all at the same

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1 time, which can become very confusing, you know,
 2 especially if your head is down in the cradle
 3 and you are not able to see what this person is
 4 doing to you. And at that point in time, before
 5 this even happened, I trusted him. He was in my
 6 inner circle. He's one of the people that made
 7 me successful for what I was doing, and there
 8 was no reason for me to think that he would harm
 9 me.
 10 And from that point on, I did not
 11 feel comfortable being around Chris Whetstine,
 12 especially working on my body. They asked me,
 13 and the investigator asked me if he worked on me
 14 one more time, and I had my agent's assistant in
 15 the room with me.
 16 Q. And who is that?
 17 A. Britton Stackhouse.
 18 Q. What happened then?
 19 A. Britton Stackhouse came into the
 20 room, which I know was awkward and weird because
 21 she's never in the room, and at that point in
 22 time, he didn't use any of the new techniques,
 23 he just stretched me and flushed me. And I
 24 asked him, I said I got a competition coming up,
 25 are you not going to work on my body like you

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1 usually would? He said no, no, you are okay,
 2 and he kind of like brushed it off, and then
 3 went into the bathroom and cleaned his hands.
 4 Q. And what happened then?
 5 A. I was told to see if I could find
 6 any kind of evidence around his room that looked
 7 out of place. And I saw a container, a white
 8 container with this tall (indicating) and it was
 9 said on the label, BioMart, it looked like a
 10 prescription, it said BioMart, and it looked
 11 like a small prescription.
 12 Q. Were you able to determine what was
 13 in there?
 14 A. No, I didn't, it was happening so
 15 quick. I just saw the big letters BioMart, and
 16 from there, he came back into the room, so I
 17 was, I didn't do anything else.
 18 Q. Did you -- but you didn't take the
 19 bottle with you?
 20 A. No, I didn't.
 21 Q. Did you then report what you had
 22 found to anybody?
 23 A. I did.
 24 Q. Who did you report it to?
 25 A. I reported it to the investigator; I

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<p>1 reported it to Renaldo, my agent; Cammy Myler, 2 and my family, everyone, who was already in the 3 know. 4 Q. Prior to then, had you ever heard of 5 BioMart? 6 A. No, I haven't. 7 Q. Now, even with all of this circling 8 around you, you participate at the National 9 Championships? 10 A. Yes, sir. 11 Q. Did you have discussions with USA 12 Track and Field about running? 13 A. I had discussions with the head, the 14 CEO, Craig Masback of Track and Field. And at 15 that point in time, a B sample was not given to 16 us yet, and his words were, with tears in his 17 eyes, he said, you know, innocent until proven 18 guilty. If you feel like you can go out there 19 and run and defend your title, then by all means 20 to do so. And I took his word, and I took his 21 advice, and I went out there, and I did it. 22 Q. How did you run that weekends? 23 A. I ran three sub-10s in an hour, and 24 that was something that hasn't been done by an 25 athlete, and I think I was trying to prove a</p>	<p>1 A. Yes, it does. 2 Q. Now, you indicated before that you 3 had hired two different private investigators, 4 the first one was at Nationals. What was the 5 second group? 6 MR. CAMPBELL: Do you have the names 7 of those private investigators? 8 MR. COLLINS: I have the names of the 9 second one. I will have to get you the name of 10 the first one. 11 Q. (By Mr. Collins) Do you know the 12 name of first one? 13 A. His name was Jack, I can't remember 14 his last name. Renaldo knows him. Renaldo 15 summoned him. 16 Q. And he's local in Indianapolis? 17 A. Yes, he is. 18 Q. The second group you hired is out of 19 New York, I believe. 20 A. Yes. 21 Q. The New York area? 22 A. Through my lawyer at the time, 23 Cameron. 24 Q. She was based in New York? 25 A. Yes, sir.</p>
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<p>1 point to myself. And the point was what was I 2 going to do about this situation I was in? That 3 I'm a legit athlete. This is a God-given 4 talent. And from this point on, do I still want 5 to go out there and want to be successful? Yes, 6 I do. I believe in my talent to the fullest. 7 And I think God is trying to be, my way of 8 showing everyone that I can do this, I can run 9 great times without even trying to use 10 performance- enhancing drugs. 11 Q. So you run three sub-10s. You win 12 the hundred? 13 A. Yes. 14 Q. You are drug-tested? 15 A. Yes, sir. 16 Q. And the test comes back negative? 17 A. Yes, it does. 18 Q. And as we already established that 19 was one of the CIR tests that comes back 20 negative. 21 Now, after Nationals, you have the B 22 sample tested? Correct? 23 A. Yes, sir. 24 Q. And that sample comes back also as a 25 positive?</p>	<p>1 Q. And the firm she hired I believe was 2 called SafirRosetti? 3 A. Yes. 4 Q. What do these investigators do? 5 A. They flew all the way across the 6 country to Eugene, Oregon, and they pretty much 7 questioned Chris Whetstine right there in his 8 house. They stayed around for a little while 9 and watched his routines and how he acted 10 without him knowing. 11 Q. And then did they interview him? 12 A. Yes, they did. 13 Q. Now, when you learn of your positive 14 test, the A test, did you gather all the 15 different supplements you had been taking and 16 ship those off to a scientist to test them? 17 A. I did personally, yes, I did. And I 18 was wanting to make sure that, I wanted to rule 19 out any other way that I could test positive, 20 maybe tainted supplements, and I shipped them 21 off to see if they were tainted or not. They 22 came back negative. They weren't tainted. 23 Q. You sent those to Dr. Black? 24 A. Yes. 25 Q. After learning of the B positive,</p>

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<p>1 you start negotiating or talking with USADA 2 about cooperating? 3 A. Yes. 4 Q. And that leads to your entering into 5 the stipulation? 6 A. Yes, it does. 7 Q. And you agree not to challenge -- 8 A. Yes. 9 Q. -- the science. And that's what you 10 were told you were doing when you entered into 11 the stipulation? 12 A. Yes, sir. 13 Q. Now, in August of 2006, do you 14 recall sending text messages to Chris Whetstine? 15 A. Yes, I did. 16 Q. Do you know or recall what prompted 17 you to send text messages to Chris Whetstine? 18 A. Well, at this point in time, we were 19 still trying to figure how this happened, and 20 what was the motive behind it, and who was 21 behind the situation. And I got a call from 22 Trevor Graham saying that he spoke to Chris 23 Whetstine at length, and Chris basically said 24 that he was involved in the situation, but he 25 wanted to come forward and say he did it, but he</p>	<p>1 MR. CAMPBELL: Do you have any 2 objection? 3 MR. TYGART: No. 4 MR. CAMPBELL: I just want to clarify 5 -- if you don't mind. I thought I heard you say 6 Trevor Graham talked to this guy Chris. Chris 7 said he did it, but before he would really 8 confess to it, he wanted an agreement from you 9 that you wouldn't sue him; is that right? 10 MR. GATLIN: Yes, sir. 11 MR. COLBERT: Can I ask just one 12 little clarification? I understand that you had 13 a conversation with Trevor Graham, not with 14 Chris Whetstine? 15 MR. GATLIN: Yes, sir. 16 MR. COLBERT: Trevor Graham said 17 that Chris Whetstine was willing to come forward 18 and say he did it. 19 MR. GATLIN: That was told to me, 20 yes, sir. 21 MR. COLBERT: That's what Trevor 22 Graham told you. He didn't tell you that Chris 23 Whetstine actually did it. Chris Whetstine 24 didn't tell you that he actually did it, just 25 what you said here.</p>
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<p>1 didn't want me to take any action against him. 2 He didn't want me to sue him in any way or harm 3 him in any way. 4 Q. So what did you do after receiving 5 this call from Trevor Graham? 6 A. I texted Chris Whetstine. I asked 7 him, I said if you know anything about the 8 situation, please come forward. If you are 9 guilty, just say you did it. I just want to get 10 back on the track and run, that's all I wanted 11 to do. I will not take action against you. 12 MR. COLLINS: At this point, I have a 13 question. 14 You sent those to me, Travis. I 15 don't know if they were in flow-backs of the 16 text messages. Are those in the record yet or 17 no? 18 MR. TYGART: No, as my e-mail said to 19 you that we weren't introducing them, but if you 20 wanted to, you could. 21 MR. COLLINS: Okay. I have. 22 MR. COLBERT: These are not in the 23 materials provided to us. 24 MR. COLLINS: These are not in the 25 materials. So I will --</p>	<p>1 MR. GATLIN: Yes. Trevor Graham was 2 also quoted in the paper as saying that he knew 3 that Trevor -- that he knew Chris did it, and 4 this is how he did it. 5 MR. CAMPBELL: Do we have that 6 newspaper article? 7 MR. TYGART: We did provide some of 8 those. 9 MR. COLLINS: Some of those are in 10 there. 11 Q. (By Mr. Collins) When Trevor told it 12 to you, did he say he was willing or did he say 13 he wanted to come clean or do you recall what 14 words he told you? 15 A. He said he wanted to come clean, but 16 he didn't want me to take action against him. 17 He didn't want me to give him any kind of harm. 18 So, from there, I proceeded to text him and say, 19 you know, if you did it, then just come forward. 20 I just want to run. 21 MR. COLBERT: And these are the 22 texts that your counsel has? 23 MR. COLLINS: Right. I have -- as I 24 understand it these are -- we could read them 25 into the record -- in speaking with Special</p>

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1 Agent Novitzky, there is actually one more that
2 you, for some reason don't have a copy of, but
3 for some reason the IRS does.
4 MR. CAMPBELL: Do you have a copy of
5 it?
6 MR. COLLINS: I don't have it, but
7 Novitzky has read it to me over the phone.
8 MR. CAMPBELL: This is a text message
9 from --
10 MR. COLLINS: They're text message
11 exchanges between, between Justin and Chris
12 Whetstine. I will try to read them.
13 MR. COLBERT: If you actually have
14 them, can you make copies?
15 MR. COLLINS: Yes, we can make copies
16 of them, they're kind of confusing, because text
17 messaging, you can only fit so much in there and
18 it kind of continues over to the next one.
19 MR. COLBERT: I got kids, I
20 understand.
21 MR. TYGART: Why don't we do this:
22 That's why I sent it in advance, if you wanted
23 them in, we could clarify this before today.
24 But why don't I do this: I will ask my
25 secretary again to print color copies because

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1 the black and white copies are terrible, print
2 colored copies, overnight them to us for
3 delivery tomorrow, and we'll enter them in
4 tomorrow. Are there questions you need to ask
5 this witness about?
6 MR. COLLINS: There's one -- the one
7 thing we have to work out, and I don't know if
8 Novitzky will give it to us, I don't know if he
9 has indicated to me, the text of the missing
10 one, if I can find it here.
11 MR. TYGART: And again -- you can
12 ask him when he's here.
13 MR. COLLINS: The text of the one
14 that's missing that you didn't have states from
15 Justin to Chris Whetstine, "My family and I just
16 want me to" --
17 MR. TYGART: Again, I'm just going to
18 object. Let's get it on the record from
19 Novitzky. It's fifth-hand hearsay at this
20 point.
21 MR. CAMPBELL: This is a text message
22 from him.
23 MR. COLLINS: It's from him. He can
24 testify whether this is accurate of what he
25 said, the actual one.

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1 It was a message sent on August 7th,
2 2006, that says: "My family and I just want me
3 to run again. That's it! Exclamation mark. We
4 will not come after you! Exclamation mark. I
5 promise that's our word! Exclamation mark.
6 Let's work this out! Exclamation mark. I am
7 tired of crying."
8 MR. CAMPBELL: Did you make that
9 statement?
10 MR. GATLIN: I did.
11 MR. CAMPBELL: You text-messaged that
12 to Chris.
13 MR. GATLIN: I text-messaged that to
14 Chris Whetstine, yes, sir.
15 MR. COLBERT: We haven't seen any
16 e-mails yet, but may I ask, were there any
17 e-mails from Chris Whetstine back to Mr. Gatlin
18 in any of this package?
19 MR. COLLINS: There's one from Chris
20 Whetstine to Justin Gatlin saying, What are you
21 asking me to do. And then it's followed up by
22 an e-mail from Justin back to him saying, Tell
23 the truth, please.
24 MR. COLBERT: I guess we will see
25 the whole package together.

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1 MR. CAMPBELL: What date was the
2 first text message?
3 MR. COLLINS: They were all on August
4 7th, I believe.
5 Q. (By Mr. Collins) Now, shortly --
6 now, in sending these, were you trying to
7 threaten Chris Whetstine?
8 A. Not at all.
9 Q. What was your reason for sending
10 these?
11 A. To find the truth, to find out what
12 happened to me and trying to resolve it.
13 Q. Approximately, a week or so after
14 meeting, or sending these texts, do you have a
15 meeting with Special Agent Novitzky?
16 A. Yes, I do.
17 Q. Where is that meeting?
18 A. New York, at Cameron Myler's firm.
19 Q. How did that meeting come to be?
20 A. I don't know exactly how Novitzky
21 got involved, but he was told that he wanted me
22 to come, I mean, well, he wanted to come, and I
23 accepted him coming, and I was asked different
24 questions, and he also asked me to --
25 Q. We're going to get into what was

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1 there. I just wanted to first establish how it
 2 came to be.
 3 So you meet with Special Agent
 4 Novitzky in New York?
 5 A. Yes, sir.
 6 Q. Who is present in that meeting?
 7 A. Renaldo Nehemiah, Cameron -- no, I
 8 don't think Renaldo isn't there, Renaldo wasn't
 9 there for that part -- Cameron Myler, my mom,
 10 and Special Agent Novitzky, and his assistant.
 11 Q. And was there another attorney from
 12 Cameron Myler's firm there?
 13 A. Brian.
 14 Q. Now, approximately, how long do you
 15 recall meeting with Special Agent Novitzky?
 16 A. Through our questions and everything
 17 and cooperation, it took maybe an hour.
 18 Q. So it was a period of time?
 19 A. Yes, a period, definitely.
 20 Q. Was this the first time you had ever
 21 been interviewed by the government?
 22 A. Yes.
 23 Q. Were you a little nervous?
 24 A. I was petrified. I mean, this is the
 25 government, the United States Government. This

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1 is what holds our country together, so I mean, I
 2 felt, I knew I was innocent and I knew he had
 3 questions for me, and I tried to give him as
 4 much information that I knew that I could give
 5 him.
 6 Q. And you answered all the questions
 7 he asked you?
 8 A. Yes, I did.
 9 Q. Now, during this investigation, or
 10 during this interview with Special Agent
 11 Novitzky, did you discuss receiving a B12 shot?
 12 A. Yes, I did.
 13 Q. And did your description that the
 14 B12 shot basically coincide with what you said
 15 today?
 16 A. Yes, it did.
 17 Q. And what was your understanding in
 18 giving this interview? You were given a letter
 19 that -- back when I was a prosecutor it was
 20 called a proffer letter -- was that shown to
 21 you, and explained to you what you meant?
 22 A. What?
 23 Q. A letter where you have to tell the
 24 truth, they won't prosecute. They have the right
 25 to pursue any leads from it --

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1 MR. TYGART: It might be nice to hear
 2 what his understanding of that is, instead of
 3 yours. I know you know, John, being a former
 4 prosecutor.
 5 MR. COLLINS: I kick into autopilot,
 6 it's like when you drive the train --
 7 MR. TYGART: If my memory serves me,
 8 I think, it's an objection, leading question.
 9 Q. (By Mr. Collins) But you signed what
 10 was known as a proffer letter or a letter --
 11 A. Yes, sir.
 12 Q. What was your obligation as to what
 13 you had to tell them?
 14 A. Any information I had dealing with
 15 Trevor Graham, and any information that I had
 16 dealing with my case and my situation.
 17 Q. And you were truthful?
 18 A. Yes, sir.
 19 Q. And did you try to be truthful?
 20 A. Oh, yeah.
 21 Q. Now, you discussed the B12 shot. Do
 22 you recall discussing the receipt of a pill from
 23 Randall Evans after the B12 shot?
 24 A. Yes.
 25 Q. Do you recall how you described that

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1 pill?
 2 A. I described it as a green pill.
 3 Q. And later when you were asked about
 4 it, do you describe it as something other than a
 5 green pill?
 6 A. Yes.
 7 Q. What did you describe it as?
 8 A. A brown pill.
 9 Q. Do you know why you described it as
 10 a green pill when you were there?
 11 A. Well, earlier, like I said in my
 12 statement, I was nervous, when I was there with
 13 him, I wanted to make sure, I pleased him with
 14 all my questions. I asked him questions
 15 truthfully and honestly. It was just a confusion
 16 between like I said the Excedrin back and body
 17 pain, which is a green pill, and the Voltaren,
 18 which is a brown pill.
 19 Q. Do you know when you realized what
 20 the green pill was -- during, after your
 21 interview, was there a time when Special Agent
 22 Novitzky asked you about the discrepancy between
 23 a green pill and a brown pill?
 24 A. He did, and I totally forgot about
 25 the Excedrin back and body pain

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<p>1 anti-inflammatory until maybe a week ago. 2 Q. Could you explain how it was that 3 you recalled the green pill? 4 A. I was on business in Tennessee. 5 Q. What were you doing in Tennessee? 6 A. I was trying out for their football 7 team. 8 Q. And so what happened? 9 A. I was in the airport after the 10 workout, and my body was aching from the 11 rigorous workout. And I went to the airport, 12 and I went to the little, where they have the 13 magazines, and different candy bars, and 14 medicines, and I saw the Excedrin, and I was 15 used to taking that, something that we could, 16 and I picked it up, and I bought it, and opened 17 the bottle, had me a bottle of water, and put 18 the pill in my hand, and I looked at it, and 19 there was a green pill. I was just like 20 floored. I was just standing there and I was, I 21 was happy, for the simple fact, because I know I 22 was not lying to him, and I knew that there was 23 a green pill. And that was the green pill, that 24 I remember. 25 Q. What did you do when you saw the</p>	<p>1 Q. Just -- I saw Travis raise his 2 eyebrows there, a wiretap is a little -- you 3 are talking about using a machine to record the 4 conversation? 5 A. Record the conversation. 6 Q. It wasn't as if you were actually 7 placing a wire into it secretly to get all 8 things. There is a federal statute on wiretaps. 9 We want to make sure that it's clear that no one 10 violated any kind of statute. 11 So he asked you to make an 12 undercover call. 13 A. Yes, sir. 14 Q. When did he ask you to do it? 15 A. Immediately, after he questioned me 16 about everything I knew. 17 From there, he asked me to make 18 these phone calls, make this phone call to 19 Trevor Graham. He said that he wanted to at 20 least ask between five and ten minutes, and I 21 wanted to show him, that I wanted to help as 22 much as possible. So I let the phone call last 23 for a good substance in the subjects, 20 to 30 24 minutes. 25 Q. And you said there were subjects,</p>
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<p>1 pill? 2 A. I jumped up and down, and I was 3 happy. I was elated. I called my parents, and 4 Renaldo, and I told her that I knew what the 5 green pill was. 6 Q. And you had been, since learning of 7 the discrepancy from Special Agent Novitzky, you 8 had been racking your brain pretty hard to 9 figure out? 10 A. Definitely. I know -- knowing that 11 I was being truthful with him, I knew that there 12 was something I had to find out what it was. 13 Q. Okay. So you are answering all of 14 his questions, which takes a period of time. 15 Does there come a time during this interview 16 where Special Agent Novitzky asks you to do 17 something? 18 A. Yes, it is. 19 Q. What does he ask you to do? 20 A. He asks me to do wiretaps to Trevor 21 Graham. 22 Q. And what do you mean by wiretaps? 23 A. He wanted me to talk to Trevor 24 Graham undercover without Trevor Graham knowing 25 that I have a recorded conversation.</p>	<p>1 how were those subjects decided to talk about. 2 A. Jeff Novitzky brought up a list of 3 what he wanted me to talk about right there on 4 the spot. 5 Q. So did you talk to Trevor Graham 6 before calling him, and told him, hey, I'm going 7 to call you and say you, I'm going to tell you a 8 bunch of BS, because I'm calling for the federal 9 government? 10 A. No. 11 Q. Did you cover all the topics that 12 Jeff Novitzky asked you to cover? 13 A. From Point A to Point B, yes, sir. 14 Q. Is that the only undercover call 15 that you ever made? 16 A. No, it's not. I made at least 17 between eight to ten phone calls. 18 Q. And how did you make those calls, 19 because you are there, I'm assuming Special 20 Agent Novitzky had the recording equipment? 21 A. Yes. 22 Q. What happened with that recording 23 equipment at the end of that interview? 24 A. He wanted me to keep it and take it 25 with me.</p>

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<p>1 Q. Did you?</p> <p>2 A. Yes, I did.</p> <p>3 Q. And did you use that equipment?</p> <p>4 A. Yes, I did.</p> <p>5 Q. And how did that go?</p> <p>6 A. Well, the equipment is like a tape</p> <p>7 recorder with two wires coming out of it, and</p> <p>8 one goes into your ear, and it records the</p> <p>9 conversations that you are having on the other</p> <p>10 end.</p> <p>11 Q. Okay. And did you record more calls</p> <p>12 with Trevor Graham?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Did you record them with anybody</p> <p>15 else?</p> <p>16 A. I started recording phone calls with</p> <p>17 Randall, but then he told me not to, because he</p> <p>18 didn't tell me to do it, but --</p> <p>19 Q. He, meaning Agent Novitzky, did not</p> <p>20 tell you to record them with Randall Evans?</p> <p>21 A. Yes.</p> <p>22 Q. So -- and you recorded approximately</p> <p>23 eight to ten more calls?</p> <p>24 A. Yes, I did, with Trevor Graham.</p> <p>25 Q. And how would this happen? Would</p>	<p>1 Atlanta, so I wasn't going to make it there</p> <p>2 until the next day, basically, to New Orleans,</p> <p>3 and flying from Pensacola to Atlanta, and then</p> <p>4 all the way to New Orleans, I might as well just</p> <p>5 drove, because New Orleans was only two and a</p> <p>6 half hours from Pensacola, Florida, so I just</p> <p>7 got in my truck, and I just drove.</p> <p>8 Q. You drove to New Orleans, and you</p> <p>9 forgot to bring the recording equipment?</p> <p>10 A. Yes, I did.</p> <p>11 Q. When you got back, did you explain</p> <p>12 that to Special Agent Novitzky?</p> <p>13 A. Yes, sir.</p> <p>14 Q. I want to draw your attention to</p> <p>15 late November, 2006. Actually, before that. Is</p> <p>16 there a time where Agent Novitzky just indicates</p> <p>17 you don't have to keep recording calls?</p> <p>18 A. They came -- it came to a point</p> <p>19 where he felt that my help, I went above and</p> <p>20 beyond the call of duty, what he wanted me to</p> <p>21 do, and he was very excited for what I did, and</p> <p>22 he was very pleased. So he was -- he said I</p> <p>23 didn't have to do it anymore.</p> <p>24 Q. Now, I want to draw your attention</p> <p>25 to late November 2006.</p>
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<p>1 you call Trevor? Would Trevor call you?</p> <p>2 A. Either/or. If Trevor was calling</p> <p>3 me, I would quickly assemble the recorder or I</p> <p>4 would call him.</p> <p>5 Q. Now, in the fall of 2006, is there a</p> <p>6 time when you would go to New Orleans?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Why was it you went to New Orleans?</p> <p>9 A. For a brief trial with the New</p> <p>10 Orleans Saints.</p> <p>11 Q. Now, when you were cooperating with</p> <p>12 the government, you were supposed to be</p> <p>13 recording all your calls with Trevor Graham; is</p> <p>14 that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Did you bring that equipment with</p> <p>17 you to New Orleans?</p> <p>18 A. I accidentally left it for those two</p> <p>19 days.</p> <p>20 Q. Was there anything unusual about</p> <p>21 your travel to New Orleans?</p> <p>22 A. Yes. I was put on a flight by the</p> <p>23 New Orleans Saints, and already knowing</p> <p>24 traveling situations, I was delayed in Pensacola</p> <p>25 which was going to make me miss my flight to</p>	<p>1 Have you ever heard of an individual</p> <p>2 named Angel Heredia?</p> <p>3 A. Yes.</p> <p>4 Q. How did you ever hear of Angel</p> <p>5 Heredia?</p> <p>6 A. I heard of Angel Heredia in the</p> <p>7 newspapers, and I also heard him through my</p> <p>8 agent Renaldo Nehemiah.</p> <p>9 Q. Does Angel have a nickname?</p> <p>10 A. Memo.</p> <p>11 Q. Memo. Have you ever had a</p> <p>12 conversation with Memo?</p> <p>13 A. Yes, I have.</p> <p>14 Q. When was the first time you ever had</p> <p>15 a conversation with Memo?</p> <p>16 A. It was a three-way call between</p> <p>17 myself, and, myself, my agent, and Memo.</p> <p>18 Q. And do you know when that was?</p> <p>19 A. It was sometime in November.</p> <p>20 Q. Do you know how that call got set</p> <p>21 up?</p> <p>22 A. My agent set it up.</p> <p>23 Q. Do you know an individual named John</p> <p>24 Burks?</p> <p>25 A. Yes.</p>

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<p>1 Q. Do you know who he is?</p> <p>2 A. He's also a professional coach. He</p> <p>3 lived in the Carey area of North Carolina which</p> <p>4 is only about 30 minutes, 15 minutes away, from</p> <p>5 where we worked out at.</p> <p>6 Q. Does -- your agent is Renaldo</p> <p>7 Nehemiah?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Does he ask you to get a number for</p> <p>10 John, Burks?</p> <p>11 A. He asked me to get John Burks'</p> <p>12 number.</p> <p>13 Q. And you provided that to Renaldo</p> <p>14 Nehemiah?</p> <p>15 A. I did.</p> <p>16 Q. Now, when you talk with Memo, what</p> <p>17 are you discussing, or what do you remember</p> <p>18 discussing in that first conversation?</p> <p>19 A. Well, it was just talking to me</p> <p>20 about the reason why we even talked to Memo was</p> <p>21 because we were trying to find out, we pretty</p> <p>22 much figured out it was some kind of a cream</p> <p>23 used on my body, and we basically wanted to</p> <p>24 reverse-engineer to find out what was in my</p> <p>25 body, or find out what Chris used, if he used</p>	<p>1 at unease about talking to him. I know that</p> <p>2 ironically, this might have been the way to help</p> <p>3 get me exonerated to find out what the cream</p> <p>4 was, because he was in association with him, so,</p> <p>5 he just asked me, just different various</p> <p>6 questions about what it looked like.</p> <p>7 Q. Did he give any indication as to how</p> <p>8 he felt towards Trevor Graham?</p> <p>9 A. Yes. He very much disliked Trevor</p> <p>10 Graham.</p> <p>11 Q. And did he indicate whether they</p> <p>12 ever had a falling-out?</p> <p>13 A. He did.</p> <p>14 Q. And did he give you any idea when</p> <p>15 that had happened?</p> <p>16 A. He did not give me a specific time</p> <p>17 or day when it happened.</p> <p>18 Q. But it was in the past?</p> <p>19 A. Yes.</p> <p>20 Q. Now, is that the only conversation</p> <p>21 you have with Memo?</p> <p>22 A. Maybe like two others.</p> <p>23 Q. Were those conversations similar?</p> <p>24 A. Yes.</p> <p>25 Q. What do you recall about those?</p>
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<p>1 something on that.</p> <p>2 Q. Why would you think Memo would know?</p> <p>3 A. Well, from the papers saying that he</p> <p>4 was known to be in the works with Trevor Graham,</p> <p>5 so within that time, we felt that him knowing</p> <p>6 Trevor and Chris and all knew that he might know</p> <p>7 what the cream is.</p> <p>8 Q. And it's been reported that this</p> <p>9 Memo has been involved in doping in Track?</p> <p>10 A. Yes.</p> <p>11 Q. Did you ever receive any substances</p> <p>12 from Memo?</p> <p>13 A. No.</p> <p>14 Q. Did you ever take anything that came</p> <p>15 from Memo?</p> <p>16 A. No, sir.</p> <p>17 Q. Had you ever talked to Memo prior to</p> <p>18 November of 2006?</p> <p>19 A. No.</p> <p>20 Q. Now, what do you discuss with Memo</p> <p>21 and Renaldo on that call?</p> <p>22 A. He asked me different questions</p> <p>23 about beans, and he asked me about the cream,</p> <p>24 what the cream looked like. Just, basically,</p> <p>25 the conversation was to describe it. And I felt</p>	<p>1 A. I remember him being excited saying</p> <p>2 that you -- Justin, you didn't test positive,</p> <p>3 and I can show you that you didn't test</p> <p>4 positive. I can write up these charts and show</p> <p>5 you that they made a mistake, and this is how</p> <p>6 this really happened, and that's where this</p> <p>7 conversation came from.</p> <p>8 Q. Did there come a time where money is</p> <p>9 paid to Memo to develop what he -- does Memo</p> <p>10 ever represent to you, or do you know if he's</p> <p>11 ever made a representation that he could say</p> <p>12 what the cream was?</p> <p>13 A. Yes.</p> <p>14 Q. And what did he say? How did he say</p> <p>15 that?</p> <p>16 A. He basically said that I knew, I</p> <p>17 know exactly what's going on. And I can prove</p> <p>18 to you, and I can break it down for you, so you</p> <p>19 could use it for your case.</p> <p>20 Q. And then did there come a time when</p> <p>21 you provided money for Memo to figure out what</p> <p>22 was in this cream?</p> <p>23 A. I did. He asked for 10,000. I said</p> <p>24 I will only give you half. You give us this</p> <p>25 information -- because I was uneasy about it --</p>

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<p>1 you give us this information, and you can get 2 the rest of the money. 3 Q. Do you recall how that money was 4 paid? 5 A. It was paid from Renaldo Nehemiah. 6 Q. Did you, you didn't -- did you 7 ultimately receive a report from Memo? 8 A. After a long wait, yes. 9 MR. COLLINS: Which, I have 10 occasionally will refer to as the Memo memo. 11 Q. The report when he finally, or the 12 Memo memo, when he finally gets around to 13 drafting it and sending it in, does it say what 14 the cream is? 15 A. No. 16 Q. And the purpose for having it 17 drafted was he was going to say -- did you 18 provide him or have any documents provided to 19 him to help him figure out what the cream was? 20 A. Other than my tests, my different 21 tests that I have had done by USADA. 22 Q. So the test results of the A and B 23 sample on April 22nd, were sent to him to see if 24 he could then figure out what caused the 25 positive?</p>	<p>1 Q. Do you know if Renaldo then had 2 conversations with Agent Novitzky about this as 3 well? 4 A. Yes, he did. 5 Q. Do you know if Renaldo provided a 6 copy of the Memo memo to Agent Novitzky? 7 A. Yes. 8 Q. And do you know if he provided him 9 copies of the bank account numbers of where the 10 money was sent? 11 A. Yes, we volunteered that information 12 to him. 13 Q. And do you know if he gave any 14 telephone numbers of Memo to Agent Novitzky? 15 A. Yes, we did. 16 Q. Now, throughout your career, have 17 you been cautious of what you eat and drink? 18 A. I still am to this day. 19 Q. Would you, for example, when you had 20 a cold, would you just take anything off the 21 shelf? 22 A. No, sir. 23 Q. Do you have allergies? 24 A. Yes. 25 Q. And would you take medicine to treat</p>
<p>Page 174</p> <p>1 A. Yes, sir. 2 Q. The report comes back. Does it say 3 what the cream was? 4 A. Not at all. 5 Q. What happens instead? 6 A. He goes on one of his another rants, 7 saying, you know, I just need a little more 8 time, I know what's going on, and that's when we 9 basically shut the door on it, you know, you are 10 full of it. 11 Q. Now, does there come a time after 12 this, where you learn that Agent Novitzky was 13 displeased that you and Renaldo and others had 14 had conversations with Memo? 15 A. Yes. 16 Q. And once you learn of Agent 17 Novitzky's displeasure, do you have any 18 discussions with him about what had happened or 19 how it had happened? 20 A. With Novitzky or Memo? 21 Q. With Novitzky. 22 A. Yes. I explained to him, honestly, 23 how it happened, how I was introduced to him 24 through Renaldo Nehemiah, my agent, and how 25 Renaldo paid him for his work.</p>	<p>Page 176</p> <p>1 those? 2 A. Most of the time, no. 3 MR. COLLINS: I only have just a 4 couple more minutes, and maybe it would be a 5 good time to break for lunch? 6 MR. CAMPBELL: Time for a break, 7 sure. 8 MR. COLLINS: You've been drinking 9 coffee too. 10 MR. CAMPBELL: Water. 11 MR. COLLINS: Okay, water, same 12 problem. 13 Q. (By Mr. Collins) Now, what was your 14 practice with drinking bottles of water if you 15 were in and around a competition? 16 A. I would personally label them, so I 17 would take off the wrapper, so I could 18 individualize my bottles, or I would make sure 19 they're in my bags. 20 Q. Would you make sure -- would you 21 drink out of a bottle that you didn't open? 22 A. No. 23 Q. What would happen if you lost sight 24 of the bottle? 25 A. I would throw it away, immediately.</p>

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1 Q. When you check into hotels, do you
 2 always check in under your name?
 3 A. No, I didn't. I checked in under
 4 various names such as John Brown or other
 5 different kind of names.
 6 Q. Why did you do that?
 7 A. From the point of paranoia and
 8 making sure that I'm safe, and no one could have
 9 access to my room, and tamper with my stuff.
 10 Q. When you took supplements, who
 11 purchased them?
 12 A. I did.
 13 Q. Would you take them if someone else
 14 purchased them?
 15 A. No.
 16 Q. What about stuff rubbed on you by
 17 massage therapists, did you purchase that?
 18 A. No, I did not.
 19 Q. Why didn't you?
 20 A. Because at that point in time, I
 21 felt that everything was funded through my
 22 employer, Nike. I felt that Nike would not put
 23 their own athlete in jeopardy, especially when
 24 they're their top athletes.
 25 Q. So Chris Whetstine, you met through

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1 Nike?
 2 A. Yes, sir.
 3 Q. He was paid by Nike?
 4 A. Paid by Nike.
 5 Q. You didn't do a personal background
 6 check of him?
 7 A. No, I did not.
 8 Q. And why not?
 9 A. He was an employee of Nike, like I
 10 was an employee of Nike.
 11 Q. I think we've covered this, but
 12 after learning of your positive test in June of
 13 last year, you continued to speak to youth
 14 groups about a drug-free sport?
 15 A. Yes.
 16 Q. This one might seem a little silly,
 17 but did you have any input in the WADA code?
 18 A. No, sir.
 19 Q. Did you have any ability to
 20 negotiate drug testing or anything like that?
 21 A. No.
 22 Q. And you had the forms, it was just
 23 take it or leave it, and you had to sign them?
 24 A. Yes, sir.
 25 Q. Did you ever knowingly take a banned

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1 substance?
 2 A. No.
 3 Q. Did you ever intend to cheat by
 4 taking a banned substance?
 5 A. No, sir, not at all.
 6 Q. Did you ever authorize anyone to
 7 give you a banned substance?
 8 A. No, sir.
 9 MR. COLLINS: I believe that's all I
 10 have for now.
 11 MR. COLBERT: You mean all you have
 12 for now, you mean on your direct?
 13 MR. COLLINS: Yeah.
 14 MR. COLBERT: Well, I think, we have
 15 been going for an hour and 45 minutes, since the
 16 last break. It's 1:25. We can go off the
 17 record.
 18 (Discussion off the record.)
 19 MR. COLBERT: Back here at 2:30,
 20 we'll start.
 21 (Recess taken from 1:25 to 2:30 for
 22 the noon hour.)
 23 (Justin Gatlin, Mr. Gatlin and Visie
 24 Simms were present in the room.)
 25 MR. COLBERT: Are we ready to go?

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1 Are you ready?
 2 Do you want the witness to resume
 3 his seat, or is he okay where he is?
 4 MR. BOCK: He's okay. Where -- it's
 5 up to you, and it's up to the court reporter.
 6 MR. COLBERT: As long as the court
 7 reporter has no problems, then --
 8 MR. GATLIN: I will go back, because
 9 I couldn't see the projector, and I moved back.
 10 MR. BOCK: Okay. Sounds good. We
 11 won't get to the projector for a few minutes.
 12 MR. CAMPBELL: The light can be
 13 turned off.
 14 MR. BOCK: We won't be there for a
 15 few minutes. But it's okay with me if he sits
 16 there and if he's comfortable.
 17 MR. COLLINS : You want to move over
 18 here? I will slide down. Slide over a little
 19 bit.
 20 MR. GATLIN: I will just move over
 21 here.
 22 MR. COLLINS: I'm a little bit
 23 better door than window.
 24
 25

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<p>1 EXAMINATION</p> <p>2 BY MR. BOCK:</p> <p>3 Q. Mr. Gatlin, my name is Bill Bock,</p> <p>4 and along with Mr. Tygart, one of the attorneys</p> <p>5 for USADA. And, of course, you have been in a</p> <p>6 hearing before, but it's a little different than</p> <p>7 this one. And my role is to just ask you</p> <p>8 questions about your testimony and about the</p> <p>9 facts that we think relate to this case, so you</p> <p>10 have got your counsel there to protect you as</p> <p>11 well, but before we begin, do you have any</p> <p>12 questions about the process?</p> <p>13 A. No.</p> <p>14 Q. Okay. And you recall that you were</p> <p>15 sworn under oath at the beginning of your</p> <p>16 testimony?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And is it your understanding</p> <p>19 that you are still under oath?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And do you understand what</p> <p>22 the oath means in terms of potential liability</p> <p>23 for perjury if you do not tell the truth?</p> <p>24 A. Yes.</p> <p>25 Q. And so you are committed to telling</p>	<p>1 recall when your counsel asked you, Can you get</p> <p>2 it in Europe?</p> <p>3 A. Yes, I remember that.</p> <p>4 Q. Okay. And do you recall your</p> <p>5 response, yes, you can over the counter?</p> <p>6 A. Yes.</p> <p>7 Q. The fact is in the United States,</p> <p>8 you can't get it over the counter, can you?</p> <p>9 A. My knowledge, I never looked into</p> <p>10 that.</p> <p>11 Q. You never looked into it? Okay.</p> <p>12 A. No.</p> <p>13 Q. But you did testify that this was a</p> <p>14 subject that you used throughout -- or a</p> <p>15 substance that you used throughout your career,</p> <p>16 correct?</p> <p>17 A. Yes, the majority of my career is</p> <p>18 overseas.</p> <p>19 Q. And do you know that Voltaren is a</p> <p>20 prescription substance in the United States?</p> <p>21 A. At that point in time, no, I didn't.</p> <p>22 At this point now, I do.</p> <p>23 Q. And have you ever had a prescription</p> <p>24 for Voltaren cream?</p> <p>25 A. No, I haven't.</p>
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<p>1 the truth?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. We won't get to it at the</p> <p>4 moment, but there were some newspaper articles</p> <p>5 that USADA submitted. And one of those articles</p> <p>6 had a quote from your attorney, Mr. Collins, and</p> <p>7 that quote was: "This time" -- referring to the</p> <p>8 upcoming arbitration hearing -- "we'll explain</p> <p>9 the full stack of circumstances and everything</p> <p>10 around it, and hopefully we'll get a similar</p> <p>11 result."</p> <p>12 In terms of the first part of that</p> <p>13 statement "explain the full stack of</p> <p>14 circumstances," as he was quoted, is that your</p> <p>15 goal today to explain all of the relevant</p> <p>16 information about your case?</p> <p>17 A. As much as I can.</p> <p>18 Q. Okay. The first thing I want to</p> <p>19 talk with you about is the Voltaren cream that</p> <p>20 you discussed in your direct examination.</p> <p>21 The Voltaren cream is an</p> <p>22 anti-inflammatory; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And I was intrigued by the questions</p> <p>25 from your counsel and your responses. Do you</p>	<p>1 Q. Who recommended the use of Voltaren</p> <p>2 cream?</p> <p>3 A. Chris Whetstine.</p> <p>4 Q. Who else?</p> <p>5 A. Who else?</p> <p>6 Q. Mm-hm.</p> <p>7 A. Other than that, Chris Whetstine was</p> <p>8 the only person that used Voltaren cream.</p> <p>9 Q. Well, how about Voltaren pills?</p> <p>10 A. They were used by my coach and by</p> <p>11 Chris Whetstine as well.</p> <p>12 Q. Your coach used Voltaren pills?</p> <p>13 A. Well, he recommended when I was</p> <p>14 overseas as an anti-inflammatory.</p> <p>15 Q. And did he recommend them in the</p> <p>16 United States?</p> <p>17 A. At that one time.</p> <p>18 Q. Trevor Graham recommended that you</p> <p>19 use the Voltaren pill in April of 2006, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you've told Mr. Novitzky about</p> <p>22 that, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And, in fact, that pill was given to</p> <p>25 you by Randall Evans, correct?</p>

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<p>1 A. Yes.</p> <p>2 Q. The assistant track coach; is that</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. Who also gave you an injection,</p> <p>6 correct?</p> <p>7 A. Of B-12, yes.</p> <p>8 Q. Are you aware of other athletes that</p> <p>9 Mr. Graham gave Voltaren pills to in the United</p> <p>10 States?</p> <p>11 A. As far as I know, all -- everyone in</p> <p>12 the camp and anyone outside of the camp and</p> <p>13 other camps have taken Voltaren pills as well.</p> <p>14 Q. Okay. And how many of those</p> <p>15 athletes have a prescriptions for Voltaren?</p> <p>16 A. I do not know that information, but</p> <p>17 I would say, if I had to guess, I would say</p> <p>18 none.</p> <p>19 Q. You would guess none?</p> <p>20 A. I would say none.</p> <p>21 Q. And when was the first time that you</p> <p>22 realized that Voltaren was a prescription drug</p> <p>23 in the United States?</p> <p>24 A. When my lawyer, John Collins, told</p> <p>25 me it was.</p>	<p>1 MR. COLBERT: -- some leeway about</p> <p>2 it, but your client testified at quite some</p> <p>3 length about it.</p> <p>4 MR. COLLINS: Right. And I -- yeah,</p> <p>5 there's nothing -- I don't think there's</p> <p>6 anything impeaching. We're just saying the same</p> <p>7 thing. I just -- there's a relevance objection,</p> <p>8 if he's going to keep going about something</p> <p>9 that's not a banned substance.</p> <p>10 MR. COLBERT: Well, let's --</p> <p>11 MR. BOCK: Can I respond -- if I</p> <p>12 could respond to that, and one of the things</p> <p>13 here that's being charged is that Mr. Gatlin is</p> <p>14 entitled to a redaction based on exceptional</p> <p>15 circumstances which requires him to exercise the</p> <p>16 utmost care for what goes into his body. And I</p> <p>17 think an examination of how -- he testified on</p> <p>18 direct that the only way he could possibly have</p> <p>19 received this -- gotten this positive test</p> <p>20 result was because of this one substance,</p> <p>21 because of his extreme care in the use of other</p> <p>22 substances.</p> <p>23 So I'm going to go through a lot of</p> <p>24 substances and ask him questions about what care</p> <p>25 he used and what investigation, knowledge, to</p>
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<p>1 Q. Why this long-term use of Voltaren?</p> <p>2 A. It was an anti-inflammatory. It was</p> <p>3 very potent for its use. I mean, something that</p> <p>4 -- you can't find everyday aspirin overseas. So</p> <p>5 I mean, sometimes they have different things</p> <p>6 that substitute the American product, and</p> <p>7 Voltaren is one of those.</p> <p>8 MR. COLLINS: Obviously, he's gone on</p> <p>9 with this quite a bit, but I think I'm going to</p> <p>10 object to the extent that Voltaren is not a</p> <p>11 banned substance.</p> <p>12 MR. BOCK: Mr. -- go ahead, I'm</p> <p>13 sorry.</p> <p>14 MR. COLLINS: -- take it without --</p> <p>15 we're not here -- you know, we're here to find</p> <p>16 out whether there was a doping violation, and</p> <p>17 Voltaren is not on the list of prohibited</p> <p>18 substances on the WADA code or anything else. I</p> <p>19 mean, if I'm wrong, correct me, but I'm not sure</p> <p>20 what all this is leading to.</p> <p>21 MR. COLBERT: Well, the witness</p> <p>22 testified at length about Voltaren. And I guess</p> <p>23 I'm inclined to give Mr. Bock a little bit of</p> <p>24 leeway --</p> <p>25 MR. COLLINS: That's fine.</p>	<p>1 test his testimony about the extreme care that</p> <p>2 he allegedly used in protecting his body against</p> <p>3 the use of prohibited drugs either from his</p> <p>4 coach or from other sources.</p> <p>5 MR. COLBERT: I'm not stopping you</p> <p>6 from --</p> <p>7 MR. BOCK: Great. I just -- I felt a</p> <p>8 need to respond to Mr. Collins' remarks about</p> <p>9 the relevance.</p> <p>10 Q. (By Mr. Bock) When you had your</p> <p>11 investigators test products, did they test</p> <p>12 Voltaren cream?</p> <p>13 A. I don't understand the question.</p> <p>14 Q. You testified earlier that you had</p> <p>15 both investigators test some of your</p> <p>16 supplements. Did they test Voltaren cream?</p> <p>17 A. Dr. Black? It wasn't investigators.</p> <p>18 It was Dr. Black, who tested my supplements. My</p> <p>19 supplements -- that was Chris Whetstine's stuff</p> <p>20 that he used.</p> <p>21 Q. So Dr. Black never tested the</p> <p>22 Voltaren cream, correct?</p> <p>23 A. Not to my recollection.</p> <p>24 Q. But is it correct that Mr. Whetstine</p> <p>25 gave your investigators a bunch of creams that</p>

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1 he was using?
 2 A. Yes.
 3 Q. Why weren't those tested?
 4 MR. COLLINS: I'm going to object.
 5 That's assuming a fact not in evidence.
 6 MR. BOCK: He can answer.
 7 MR. COLBERT: Could you -- excuse me.
 8 Could you read back the last question and
 9 answer.
 10 (Reporter reread the last question and
 11 answer, Page 188, Line 24 to Page 189, Line 3.)
 12 MR. COLLINS: There's been no
 13 evidence that they weren't tested.
 14 MR. BOCK: He can tell me whether
 15 they were or they weren't.
 16 MR. COLBERT: You are objecting to
 17 foundation?
 18 MR. COLLINS: Yeah, he said, why
 19 didn't he test them? And there's been no
 20 evidence that they weren't tested. And when
 21 Dr. Black testifies, he can say --
 22 MR. COLBERT: Can you rephrase?
 23 Q. (By Mr. Bock) Were the creams that
 24 Chris Whetstine gave your investigators tested?
 25 A. I don't know.

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1 Q. Did you ask?
 2 A. I asked the -- I asked the
 3 investigators to pick up the cream, yes, and
 4 they got it from him.
 5 Q. Weren't you curious about whether
 6 there were any prohibited substances in the
 7 creams that Chris Whetstine gave your
 8 investigators?
 9 A. Yes. As far as I'm concerned, when
 10 they were -- if they were tested, someone would
 11 come back and tell me that they found something.
 12 Q. Well, sir, your whole theory today
 13 is that Chris Whetstine contaminated your body
 14 through rubbing a cream onto your body, and are
 15 you telling me that you weren't curious about
 16 whether the creams that you gave your
 17 investigators had a prohibited substance in
 18 them?
 19 A. I'm not saying that at all, no. I'm
 20 just saying that at that point in time, I had a
 21 lot of things going on, and I was investigating
 22 that. I'm the one that started that, to get the
 23 creams.
 24 Q. All right. And did you ever ask
 25 anybody where are these going to be tested?

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1 A. Well, I was having a
 2 miscommunication with my lawyer, Cameron Myler.
 3 That's why I have John Collins now, because a
 4 lot of things weren't getting done with Cameron
 5 Myler at that point in time, and a lot of things
 6 still haven't been brought to us from that law
 7 firm that we should have in this case.
 8 Q. Do you have any information that
 9 those creams were ever tested, regardless of who
 10 your --
 11 A. That's one of the informations I do
 12 not know.
 13 Q. Have you ever used the term
 14 "Voltaren bean" before? Bean, b-e-a-n.
 15 A. No.
 16 Q. No? Have you ever used the term
 17 "bean" in describing a substance that you
 18 ingested, that you ate?
 19 A. A bean that I have eaten?
 20 Q. Yeah --
 21 A. I have taken -- I have said Voltaren
 22 pill.
 23 Q. You said "pill"? How about bean?
 24 A. Bean, not to my recollection, I
 25 don't remember.

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1 Q. Do you recognize the term "bean" as
 2 slang for anything?
 3 A. When it was told to me. Not by my
 4 own knowledge.
 5 Q. Okay. And what were you told and
 6 by --
 7 A. It was told to me by Jeff Novitzky.
 8 Q. And what did he tell you?
 9 A. It was some sort of testosterone.
 10 Q. And how did the term "bean" come up
 11 in your conversation with Jeff Novitzky?
 12 A. He was describing the bean and what
 13 it looked like and everything. He said "bean."
 14 Q. And did you use that term in a
 15 conversation with Memo to describe what Trevor
 16 Graham gave you?
 17 A. No, I didn't. The discrepancy was
 18 the color of the pill.
 19 Q. But did you use the term "bean"?
 20 A. Not that I remember.
 21 Q. Well, do you have a recollection of
 22 what term you used?
 23 A. All I can remember is cream.
 24 MR. COLLINS: I'm going to object.
 25 Because he hasn't set forth the question. It's

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1 -- it may be possible that Memo said and
 2 referred to it as a "bean," and he may have
 3 answered --
 4 MR. BOCK: Okay. Well, let's --
 5 MR. COLLINS: As opposed to him
 6 referring to it as a bean independently. If you
 7 ask the question, "Did you take a bean" -- or,
 8 "What color was the bean you took," that's
 9 different than him saying "Oh, I took a bean."
 10 MR. BOCK: And the basis of the
 11 objection is?
 12 MR. COLLINS: Is that you are
 13 saying -- that you were asking, Did he say
 14 "bean"? He said "no," it was asked and
 15 answered. You asked it again, and you didn't
 16 ask the other part, and so it would be asking it
 17 in full context, because apparently you --
 18 MR. COLBERT: I hate to do this, but
 19 I just want -- would you go back and read the
 20 two questions about -- that Mr. Bock asked about
 21 the bean. I just want to see where we are,
 22 because it's -- because I prefer not to have
 23 lawyers testifying about what's going on. Just
 24 object. Give me the basis of the objection, and
 25 then we can make a decision, but overexplaining

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1 your objection, I think, is unnecessary.
 2 MR. COLLINS: Oddly, I was trying to
 3 prevent testimony.
 4 (The reporter read back the preceding
 5 testimony on Page 192, Lines 14 to 23.)
 6 MR. COLLINS: I think he said
 7 "green."
 8 MR. COLBERT: I'd have to say, I
 9 haven't seen -- heard anything objectionable yet
 10 in that line of questioning.
 11 Q. (By Mr. Bock) Just to clarify, I'm
 12 not asking you about the color. I'm asking you
 13 about the term "bean." Can you say with
 14 certainty that you yourself never used the term
 15 "bean" in a conversation with Memo?
 16 A. I don't remember.
 17 Q. You don't remember?
 18 And in terms of your conversations
 19 with Jeff Novitzky, can you tell us whether you
 20 recall ever using the term "bean"?
 21 A. I did not.
 22 Q. Are you certain about that?
 23 A. Yes.
 24 Q. How many conversations did you have
 25 with Memo?

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1 A. As far as I can remember,
 2 collective, maybe three.
 3 Q. And was someone else always present
 4 in those conversations with Memo?
 5 A. Say, my agent, Renaldo Nehemiah.
 6 Q. Was he always present in those
 7 conversations?
 8 A. As far as I can remember.
 9 Q. We'll come back to those.
 10 Next topic I want to cover with you,
 11 Mr. Gatlin, is the topic of injections that you
 12 testified regarding on your direct examination.
 13 In the course of your career, how
 14 many injections of substances have you received
 15 in order to assist you in recovering from injury
 16 or fatigue?
 17 A. As far as I can recall, three.
 18 Q. And could you go ahead and tell us
 19 when you received those three injections?
 20 A. Once before for the hamstring, and
 21 then a B-12 shot in the hamstring, and then on
 22 my knee.
 23 Q. And the shot in your knee and the
 24 B-12 in your hamstring were the two that you
 25 testified when Mr. Collins was asking you

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1 questions, correct?
 2 A. Yes.
 3 Q. When did the one before occur?
 4 A. Early 2004.
 5 Q. And who gave you that injection?
 6 A. Dr. Martini.
 7 Q. Dr. Martini?
 8 A. Yes.
 9 Q. Let's talk about Dr. Martini a bit.
 10 Who referred you to Dr. Martini?
 11 A. Trevor Graham.
 12 Q. I'm sorry?
 13 A. Trevor.
 14 Q. Trevor.
 15 When was the first time he referred
 16 you to Dr. Martini?
 17 A. Early '04.
 18 Q. Why did Trevor refer you to
 19 Dr. Martini?
 20 A. Well, I had an injury, and it was a
 21 very respected doctor in the area.
 22 Q. How do you know he's a respected
 23 doctor in the area?
 24 A. Because he works with a lot of
 25 professional athletes from that area.

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<p>1 Q. Who are some of the other athletes 2 he's worked with? 3 A. He's worked with soccer teams. He's 4 worked with baseball teams. I can't say just 5 one individual. 6 Q. And he's worked with athletes on 7 Sprint Capitol? 8 A. Yes. 9 Q. Who are the athletes on Sprint 10 Capitol he's worked for? 11 A. Demetrie Washington, Shana Robinson. 12 I also think he did with Me'Lisa Barber. 13 Q. Any others? 14 A. That's all I can remember. 15 Q. Do you know if he worked with Dennis 16 Mitchell? 17 A. No. 18 Q. How about C.J. Hunter? 19 A. No, they weren't there when I was 20 there. 21 Q. All right. Was Jerome Young there 22 when you were there? 23 A. No, he wasn't. 24 Q. And you don't know whether 25 Dr. Martini worked with Jerome?</p>	<p>1 That's why I had recommendations from USADA to 2 get it. 3 Q. Well, you testified that you called 4 USADA's reference line in March of 2006. But 5 you didn't testify about contacting USADA in 6 2004. Is that what you are saying now? 7 A. Well, first of all, I didn't contact 8 any reference line. I had my agent's assistant 9 call, and whichever way she called, I don't 10 know, but she's the one who called, and it was 11 confirmed through them. 12 Q. And who is your agent's assistant? 13 A. Britton Stackhouse. 14 Q. Brenda? 15 A. Britton Stackhouse. 16 Q. Can you spell that for us, please? 17 Sorry. 18 A. B-r-i-t-t-o-n. 19 Q. Stackhouse. 20 And she called and asked if you 21 could have an injection on your knee that 22 combined an inflammatory and a steroid? 23 A. Yes. 24 Q. Anti-inflammatory and a steroid? 25 A. Yes.</p>
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<p>1 A. No. 2 Q. How about Tim Montgomery? 3 A. He wasn't there when I was there. 4 Q. And how about Calvin and/or Alvin 5 Harrison? 6 A. I don't know if they went to him or 7 not. I only -- there was only one in the camp 8 for less than a year.. 9 Q. And Michelle Collins was not there 10 while you were there; is that right? 11 A. No, sir. 12 Q. Okay. And do you know whether she 13 worked with Dr. Martini? 14 A. No, I don't. 15 Q. How about Antonio Pettigrew? 16 A. Definitely wasn't there when I was 17 there. 18 Q. And what was in that first injection 19 that you received from Dr. Martini? 20 A. Basically the same thing that it was 21 for my knee. 22 Q. Do you know what substance was 23 injected into your knee? 24 A. It was a mixture of 25 anti-inflammatories and a slight steroid.</p>	<p>1 Q. What kind of steroid? 2 A. I'm not sure, sir. I can't remember 3 the name. 4 Q. All right. And that injection you 5 did have that contained a steroid was in March 6 of 2006, correct? 7 A. Yes. 8 Q. And do you have any record of this 9 phone call that was made to USADA? 10 A. No, I don't. Maybe my agent does, 11 at the time. 12 Q. Now, Britton Stackhouse hasn't been 13 identified as a witness in this proceeding. Do 14 you know where she is? 15 A. She knows -- she works with Octagon, 16 but my agent, Renaldo Nehemiah, is here as a 17 witness. 18 Q. Well, but Mr. Nehemiah didn't make 19 the phone call; is that correct? 20 A. He directed her to make the phone 21 call, so maybe he'll have the information. 22 Q. Well, I'm asking what you know. If 23 you don't know, you can tell me. 24 A. Okay. 25 Q. But was Mr. Nehemiah on that phone</p>

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<p>1 call, to your knowledge? 2 A. No, he wasn't. 3 Q. And where was Mr. Nehemiah when that 4 phone call was made? 5 A. They worked in the same office, so I 6 called Renaldo Nehemiah, and he referenced to 7 tell Britton to call, so ... 8 Q. And who talked with you -- at some 9 point did somebody come back with you and tell 10 you that a phone call had been made? 11 A. Yes. 12 Q. And who was that? 13 A. Britton Stackhouse. 14 Q. And what did she tell you? 15 A. She told me everything was okay. I 16 could take a pill ten days outside of 17 competition. 18 Q. All right. 19 What else did she tell you? 20 A. That's all, really. 21 Q. Okay. Well, I thought you testified 22 that she called to find out about whether you 23 could take an injection? 24 A. Yes. 25 Q. You just said that she told that she</p>	<p>1 records? 2 A. Meaning the shot, the information 3 for the shot? Yes. 4 Q. She has your medical records? 5 A. Are you talking about the 6 information for the shot? 7 Q. No, sir. 8 A. The medical records? 9 Q. No, sir. What I'm referring to 10 would be the file that your physician maintains 11 on you. 12 A. No. 13 Q. Okay. She didn't have that? 14 A. No. 15 Q. What did she know about your 16 condition? 17 A. She knew that I was injured. 18 Q. What else did she know? 19 A. That's the only thing she knew. 20 Q. What was the extent of your -- you 21 testified earlier that you had knee pain. What 22 was your injury? 23 A. I had -- the tendons in my knee were 24 rupturing or they were just -- they were rubbing 25 against the bone.</p>
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<p>1 could -- you could take a pill ten days outside 2 of the competition? 3 A. I meant the injection, sorry. 4 Q. Was there another phone call about a 5 pill? 6 A. No, there wasn't. 7 Q. Have you ever consulted with USADA 8 about taking a pill? 9 A. No. 10 Q. So, did Ms. Stackhouse tell you who 11 she spoke with at USADA? 12 A. No, she didn't. 13 Q. Did you ask? 14 A. I didn't. I asked if she spoke to 15 USADA, and did it come through. She said, yes. 16 I didn't ask what person she directly spoke to. 17 Q. So for all you knew, it could have 18 been the receptionist that she spoke with? 19 A. Yes. 20 Q. And what was the substance of the 21 conversation that you understood Ms. Stackhouse 22 had with USADA? 23 A. She asked a question about if it was 24 okay for me to take the shot. 25 Q. Did Ms. Stackhouse have your medical</p>	<p>1 Q. Did you tell Ms. Stackhouse that the 2 tendons of your knee were rubbing against the 3 bone? 4 A. Yes. 5 Q. When did you tell her that? 6 A. I don't recall.. 7 Q. I thought that you had talked with 8 Mr. Nehemiah, and he talked with Ms. Stackhouse? 9 A. I told Nehemiah, I'm sorry. 10 Q. Okay. So you actually did not have 11 a conversation with Ms. Stackhouse? 12 A. When I talked to Renaldo Nehemiah, 13 he puts the phone on the speaker, because they 14 work in the same office, at that point in time, 15 because they had construction going on, so when 16 he would -- when I would talk with both of them 17 at the same time. He would coordinate the 18 conversation, and then he would refer it to her. 19 Q. So now it's -- it really wasn't a 20 conversation with you and Mr. Nehemiah, where he 21 went and talked to her in a different office; 22 actually, the conversation was with both of them 23 together on the speakerphone; is that correct? 24 A. Well, it was a conversation that I 25 could hear Britton Stackhouse in the background,</p>