

7-30-07 to 8-01-07

USADA vs. GATLIN

152 (Pages 605 to 608)

Page 605	Page 607
<p>1 know that my reputation and my name is more 2 important than anything they could ever do, 3 because I worked very hard for it. So I was 4 pulled into this as well, and so it means a lot 5 to me to see this thing right.</p>	<p>1 and so we used that as a baseline. 2 I implored Nike to get tax returns, 3 because I didn't know what Chris was saying, but 4 apparently, that wasn't an issue for them. It 5 wasn't that much money in the grand scheme of 6 what they do. So they used a \$25,000 annual 7 stipend as a base pay, and \$350 a day, plus his 8 expenses.</p>
<p>6 Q. Do you know Chris Whetstine?</p>	<p>9 Q. Okay. Do you --</p>
<p>7 A. I do.</p>	<p>10 A. And prior to that, it was about \$250</p>
<p>8 Q. How do you know Chris Whetstine?</p>	<p>11 they were paying him, so my negotiation got it 12 to 350.</p>
<p>9 A. I was introduced to Chris around --</p>	<p>13 Q. Do you know approximately how much 14 he made in 2005 after you got him this deal?</p>
<p>10 well, prior to -- I couldn't tell you how many 11 days or months prior to the Athens Olympics.</p>	<p>15 A. Nike paid out about \$106,000 total.</p>
<p>12 Q. So you knew him shortly before 2004 13 then?</p>	<p>16 Q. To?</p>
<p>14 A. Correct, going into Athens.</p>	<p>17 A. To Chris Whetstine.</p>
<p>15 Q. Who did he work for; do you know?</p>	<p>18 Q. You indicated earlier, I believe, 19 that Justin Gatlin was a priority for him?</p>
<p>16 A. Chris, I had the impression that he 17 was a consultant for Nike, and he worked with 18 the elite athletes, the visible athletes in 19 Nike, the medal contenders.</p>	<p>20 A. Right. 21 Q. Can you explain that? 22 A. Well, they had Shawn Crawford. They 23 had Felix Sanchez. They had maybe Beshawn 24 Jackson -- they had, either your Number 1 in the 25 world or medalist or world champion in that</p>
<p>20 Q. Do you recall a time where 21 Mr. Whetstine asked for your opinion and 22 assistance in negotiating a contract with Nike?</p>	
<p>23 A. Definitely. At the end of the 2005 24 season -- or 2004 season, I should say, he was 25 very frustrated that his value wasn't</p>	
Page 606	Page 608
<p>1 appreciated, and he was losing money in his own 2 private practice to do this, and he felt he 3 couldn't do it unless he had a contract, in the 4 way, that he was kind of on assignment, I guess, 5 cherry-picking where they would send them.</p>	<p>1 capacity, and that was set anywhere from five to 2 seven athletes maximum. 3 But the priority was Justin, meaning 4 that that whatever Justin's schedule was, if 5 Justin was on a tour and he was going to these 6 events, that's where Chris had to go. And if 7 anybody else was going to another event, oh, 8 well, because the money was invested into the 9 most preeminent event, which was the 100 meters.</p>
<p>6 He didn't like it. So he asked me, 7 since he wasn't an expert in this, if I would 8 mind helping him out.</p>	<p>10 Q. Do you know of that 106,000, 11 approximately how much of it was attributable to 12 his work with Justin?</p>
<p>9 And I said, No problem. You need to 10 have something in place, some type of structure. 11 And I told him, Don't worry about me charging 12 you a fee, it's not a problem, primarily, 13 because I knew he was working exclusively with 14 my client as a priority for Nike.</p>	<p>13 A. Whew. The majority of it. We 14 planned out Justin's schedule that it came out 15 to be 87 days.</p>
<p>15 Q. During this when you -- so who 16 conducted the negotiations with Nike?</p>	<p>16 Q. For just Justin?</p>
<p>17 A. It was a conference call: Tim 18 Phelan, who works under John Capriotti, who is 19 the director of Track and Field in North 20 America; and myself and Chris.</p>	<p>17 A. For just Justin and the Tour, right. 18 Q. Is there a time in -- sometime in 19 the end of 2005, where you hear that Chris 20 Whetstine wanted to receive money directly from 21 Justin Gatlin?</p>
<p>21 Q. Prior to this conference call, did 22 Chris give you any indication of what his income 23 in 2004 was?</p>	<p>22 A. Yes. September is the last leg of 23 the Tour. It's on the Asian circuit. We are in 24 Yokohama, Japan. And it's a day before the 25 meet, and Chris asked me to come to his hotel</p>
<p>24 A. The negotiations were based on Chris 25 making approximately \$85,000 from his business,</p>	

Page 609	Page 611
1 room. And so I went to his hotel room.	1 And I said, He's doing pretty well.
2 And he was venting to me about how	2 And he goes, You're shitting me.
3 much work he does and how much the athletes are	3 And I said -- and I smiled, and I
4 making, specifically, Justin. And he was	4 go, He does well.
5 drawing that comparison into his disdain for	5 And he goes, 75,000?
6 working with Marion Jones and the promises	6 And I said, He does well.
7 that -- her camp had promised him bonuses, and	7 And he got a little frustrated. And
8 to this date, he had never received a penny; and	8 I said, Chris, this is not the place. It really
9 that Justin is making all this money, and didn't	9 isn't.
10 I think that he should get a bonus.	10 Q. Did you -- did the topic come up
11 Q. What did you tell him?	11 again, or did you learn of any other discussions
12 A. I told him he was paid by Nike,	12 about Mr. Whetstine seeking a bonus?
13 Number 1; he didn't have a contract with Justin.	13 A. Well, Justin later told me that, you
14 And Number 2, I used the analogy of myself. I	14 know, he specifically wanted \$5,000 from them.
15 said I get fees off of Justin, and if Justin	15 Chris never asked me a dollar amount. He just
16 were to give me a bonus, it's unexpected. It's	16 wanted to know, didn't I think he was entitled
17 not expected. So I would never ask him for it.	17 to a bonus, but I did learn later that he
18 And that -- so he needs to go back	18 specifically came up and at least wanted a
19 to Nike and talk to Nike about it. But I wasn't	19 dollar amount.
20 going to go to my client and ask my client to	20 And he talked to me about a lot of
21 give him a bonus.	21 things. He talked about he had a 12-year-old
22 Now, I did share the conversation	22 son he had to put through college, and all of
23 with Justin to let him know in case Chris came	23 this.
24 to him, because I believe in full disclosure.	24 And I said to him, Chris, if you are
25 But he was very disappointed that	25 losing money to do this, you are not as smart as
Page 610	Page 612
1 Justin was making the kind of money he was	1 I think you are, because I wouldn't lose money
2 making, and he wasn't getting bonuses. He	2 to travel around with these athletes. I don't
3 had -- he said Justin gets bonuses for winning	3 care who they are. So if the practice is doing
4 medals. I'm participating in getting him fit	4 that well, you need to make a decision, how
5 and right to run well, and so shouldn't I	5 important is this to you.
6 benefit as well.	6 But I read between the lines that
7 And although I didn't offer any	7 his practice obviously wasn't that well, because
8 resistance to that, I couldn't help him in that	8 he wouldn't be complaining and he wouldn't do
9 situation, because he didn't have a contract	9 that, so I knew -- at least, I felt; I didn't
10 with my client.	10 know. I felt that the fact that he was out on
11 Q. So this was where?	11 the Tour 87-plus days and doing this, that this
12 A. Yokohama, Japan.	12 was a consistent stream of money, because I
13 Q. Is this the only time you had this	13 didn't think he was massaging that many people
14 conversation, or a conversation like this?	14 on a daily basis to make this happen.
15 A. No. It continued about four days	15 That was my personal opinion.
16 later, when we went to Daegu, the last stop on	16 Q. Right.
17 the Tour, Daegu, Korea.	17 Now, do you hear anything from
18 Q. Okay.	18 Justin about -- is there any repercussions when
19 A. And it was on a warmup track, and	19 you find out that he requested \$5,000 from
20 Justin had just -- he had just finished working	20 Justin?
21 with Justin, and Justin had gone into the	21 A. I know later on -- late into, going
22 stadium, and he asked me, he said, Renaldo, how	22 into winter, Justin and I -- because we talked
23 much is Justin making in this meet?	23 all the time -- told me that they were not going
24 And I go, He's doing pretty well.	24 to work with Chris anymore. They were firing
25 He threw out a number, \$50,000?	25 him.

Page 613	Page 615
<p>1 And I don't know in the time frame, 2 weeks, or a week later, Chris called me up and 3 said that he just wanted me to know that he 4 wouldn't be working with us. He gave his spin 5 on it that, you know, he had to do other things, 6 and he wasn't going to deal with, you know, the 7 way Trevor treated him and the way Justin and 8 those guys talked to him.</p> <p>9 And I just said, Well, you know, 10 business is business, I'm not involved in that, 11 but I will see you around.</p> <p>12 Q. Did you ever see Chris at meets and 13 Trevor at meets?</p> <p>14 A. Yes. Yes, I did.</p> <p>15 Q. How did you -- would you say the 16 relationship was?</p> <p>17 A. I never saw that much talking. I 18 mean, Chris was in his world, you know, working 19 on the athletes. Trevor kind of was the -- you 20 know, the -- kind of like the proud papa just 21 watching the work. And Trevor had this air 22 about him, so, you knew it was Trevor.</p> <p>23 Q. Did they look like they were 24 buddies?</p> <p>25 A. I didn't hang around that much,</p>	<p>1 I think the next coming year and these guys -- 2 which would be '06 -- and these guys are getting 3 ready to do their annual winter training, where 4 they go down to Jamaica, and it was crunch time. 5 They needed to have someone.</p> <p>6 Justin told me that they were going 7 to bring Chris back.</p> <p>8 I was very concerned about that, 9 because they had fired him, but he was told by 10 Nike, you know, once they had talked with Justin 11 that they needed somebody, that he had to go 12 back to work for Justin.</p> <p>13 So I didn't talk to Chris about it, 14 but I knew that that had to be a bittersweet 15 pill, that you were fired, they had -- Trevor 16 had on his Web site Sprint Capito! that they 17 were looking for a massage therapist. So I knew 18 that had to be humiliating, that, you know, the 19 people fire you, you are not happy because the 20 guy is not paying you what you think you're 21 worth, and you can't do anything about it, 22 because he's not paying you, Nike is paying you. 23 And so I was very concerned about that.</p> <p>24 Q. You indicated you talked regularly 25 with Justin?</p>
Page 614	Page 616
<p>1 yeah. They were civil, yeah.</p> <p>2 Q. Okay. Justin said he was going 3 to -- they were going to be terminating Chris 4 Whetstine?</p> <p>5 A. Correct.</p> <p>6 Q. Did they, at any time, start looking 7 for a new physical therapist?</p> <p>8 A. We all started looking. Once Justin 9 told me that they had -- they were firing Chris 10 Whetstine, as his agent, I was going to do my 11 part and try to help on my side, if I could come 12 up with some suitable replacement.</p> <p>13 And that's what I started doing. 14 Nike did the same thing on their side. We all 15 started looking. We had a few candidates.</p> <p>16 Logistically on one of them, he had 17 a practice, he was relocating to North Carolina, 18 so he was in the midst of moving and selling his 19 practice, so he really couldn't do it in that 20 particular year. He could do it the year later.</p> <p>21 There was the Seattle Seahawks 22 trainer, who was willing to do it, but he was 23 kind of cost-prohibitive, like \$1,000 a day, as 24 opposed to 350 a day.</p> <p>25 So that ran into the early part of,</p>	<p>1 A. Yes.</p> <p>2 Q. Did you ever talk about being 3 careful to not test positive?</p> <p>4 A. All the time. No matter what we 5 did. If they were empty bottles, don't drink 6 from it. Training meets, don't pick up 7 anything. I was a constant reminder, because I 8 knew about previous suspensions.</p> <p>9 So -- and I knew -- I knew what he 10 represented and how we had to take the extra 11 precautions, whether it was what he was 12 drinking, what he was eating, reporting to USADA 13 his whereabouts. I mean, you couldn't afford 14 any slip-ups, you know. It was like Russian 15 roulette, you know, you just didn't know. So we 16 had to make sure he was on top of it.</p> <p>17 Q. When you were on the road, would 18 he -- did it appear he had learned, you know, 19 was being careful?</p> <p>20 A. Justin was very aloof on the road. 21 You didn't see Justin that much. I mean, Justin 22 was in his room. Justin ate in his room. 23 Justin didn't eat in the buffet or in the main 24 dining hall. Justin would come out for press 25 conferences, obviously for training, obviously</p>

Page 617	Page 619
<p>1 for clinic, you know, public relations type of 2 things. But I knew where to find Justin, yeah. 3 He was in his room. 4 Q. Is it fair to say he had a 5 reputation for eating a lot of room service? 6 A. Yeah, he was scarce. He wasn't 7 around much, yeah. 8 Q. Do you know if he ever took any 9 supplements? 10 A. Supplements, I know of -- and I 11 can't remember them all verbatim -- are just the 12 ones that I witnessed him writing on his USADA 13 form in drug testing, because I would accompany 14 him more often than not to drug testing. 15 Q. You've been in the track and field 16 business for awhile. Is the taking of 17 supplements fairly common? 18 A. Yes. 19 Q. And there's a list that you can find 20 out whether a supplement is a banned substance 21 or a prohibited substance or not, right? 22 A. Correct. 23 Q. Have you ever heard of Voltaren? 24 A. I have. 25 Q. Do you know people that use</p>	<p>1 Field. Do you recall a meeting or anything 2 happening after he won the Olympics in 2004? 3 A. Right. Craig Masback, CEO of USA 4 Track and Field, John Capriotti, director of 5 North America, of Nike; the Gatlins; Justin; 6 myself, had a meeting at the Nike hospitality in 7 Athens. And that meeting was to lay out to 8 Justin, his family, everyone involved with 9 Justin Gatlin, the significance of him winning 10 the Olympic gold medal, the responsibility that 11 was now bestowed on him, and that it wasn't 12 about him, it was about country, it was about 13 our integrity, our pride, and that under all 14 circumstances, he had to walk the straight and 15 narrow. He couldn't have any mistakes, any bad 16 judgments, character, et cetera. 17 So, it was one of those defining 18 moments, where -- you know, I call it 19 coming-to-Jesus talk. Okay. You are no longer 20 Justin Gatlin. You are the United States of 21 America. And everywhere you go, you got this 22 great smile, and everybody likes you, so, you 23 know, there's a lot that's being put on your 24 shoulders. 25 Q. Did he recognize that burden?</p>
Page 618	Page 620
<p>1 Voltaren? 2 A. It's widely used. And fortunately, 3 or unfortunately, depending how you look at it, 4 globally, they have always been more liberal 5 than we have. 6 Q. Who is "they"? 7 A. The Europeans. The reference is 8 infrared laser came out when I was running. It 9 was prohibited in this country; widespread in 10 England, Germany, Austria, all these different 11 places. So I was getting laser all the time 12 because they could use it. It was a part of the 13 physio treatment. Now it's here. 14 So same thing with Voltaren. You 15 may need a prescription here, but, you know -- 16 and there's some countries you still need a 17 prescription; but you can go to various 18 countries, buy it over the counter, and I guess 19 you would have it, and it's a legal substance, 20 so they use it, anti-inflammatory. 21 Q. When you say a "legal substance," it 22 doesn't have a prohibited substance in it? 23 A. Correct. 24 Q. Earlier, I think you talked about 25 Justin being sort of a face for USA Track and</p>	<p>1 A. He embraced it, yes, wholeheartedly. 2 Q. Going back to Voltaren briefly: Do 3 you know if Chris Whetstine ever used Voltaren? 4 A. I know he used it. I didn't -- I 5 don't know -- I wasn't there watching all the 6 different things he was putting on, but I know 7 he had it in his repertoire, yes. 8 Q. Do you know if other physios used -- 9 A. Yes, I do. 10 Q. Who? 11 A. Andy Miller, yeah. 12 Q. Okay. In going back to Chris 13 Whetstine: After the positive came out, did you 14 have any exchanges with Chris Whetstine? 15 A. After the positive came out? 16 I had e-mail correspondence with 17 Chris, and talking to him. 18 Q. Did you ever threaten Chris 19 Whetstine? 20 A. Never. 21 Q. Did you ever -- so you sent him an 22 -- did you ever send him an e-mail? 23 A. No. Chris Whetstine initiated an 24 e-mail to me. 25 Q. I have copies of these, if you would</p>

Page 621	Page 623
<p>1 like.</p> <p>2 A. Sent me a copy of a -- an</p> <p>3 unsolicited copy of an article that was written</p> <p>4 about Justin. And it was an unflattering e-mail</p> <p>5 about Justin -- article about Justin.</p> <p>6 Q. Approximately when did he send that?</p> <p>7 A. November 26th, 2006.</p> <p>8 Q. May I hand it out to the panel?</p> <p>9 Actually, I will give you a copy first.</p> <p>10 MR. TYGART: And again, I will just</p> <p>11 lodge an objection for the record. I mean, we</p> <p>12 should have had these exhibits. We --</p> <p>13 Mr. Whetstine has been called as a witness. He</p> <p>14 obviously could respond to some of them if</p> <p>15 questions arise. I mean, there's no reason on a</p> <p>16 witness that he's called on his direct that we</p> <p>17 should just now be getting a document that he</p> <p>18 plans on questioning this witness by.</p> <p>19 MR. BOCK: Absolutely. I think we</p> <p>20 should object.</p> <p>21 MR. TYGART: I just did.</p> <p>22 MR. BOCK: I know. We're objecting</p> <p>23 to its admission, because that's absolutely</p> <p>24 right. This document should have been provided</p> <p>25 when Mr. Whetstine was on the stand.</p>	<p>1 the only thing that's possible is I learned</p> <p>2 after getting in Atlanta that Dr. Black had</p> <p>3 tested a number -- all of the different</p> <p>4 substances, the supplements that had been sent</p> <p>5 to him, and he had also tested the different</p> <p>6 creams from -- that the investigators had gotten</p> <p>7 from Chris.</p> <p>8 I learned Sunday night of the</p> <p>9 supplements all being tested, and he e-mailed a</p> <p>10 copy of that to me. I then learned yesterday</p> <p>11 morning, he found a new e-mail in which he had</p> <p>12 sent documents on the things the investigators</p> <p>13 got, to Cameron Myler in November that I never</p> <p>14 was copied on. I never got it. And he found</p> <p>15 that yesterday. He didn't even know that when I</p> <p>16 talked to him Sunday night.</p> <p>17 So, I don't know that I need those</p> <p>18 documents. I could just ask him orally, if he</p> <p>19 did these tests and which ones he did. So all</p> <p>20 those things were negative.</p> <p>21 MR. COLBERT: I'm going to suggest to</p> <p>22 you that if you do want to use a document, you</p> <p>23 give it to the USADA now, or don't use the</p> <p>24 document.</p> <p>25 MR. COLLINS: When I found out</p>
<p>Page 622</p> <p>1 MR. COLBERT: Can you see the --</p> <p>2 MR. COLLINS: Yeah, I will show it to</p> <p>3 you. And if Mr. Whetstine had accurately</p> <p>4 represented what he had said, it would never</p> <p>5 have happened. But this is a -- in a sense, a</p> <p>6 rebuttal exhibit that I didn't ever know would</p> <p>7 be an issue.</p> <p>8 THE REPORTER: Can we take just a</p> <p>9 minute?</p> <p>10 MR. COLLINS: Sure.</p> <p>11 (Brief pause in proceedings from</p> <p>12 1:22 p.m. to 1:25 p.m.)</p> <p>13 MR. TYGART: So we -- on the</p> <p>14 record -- we withdraw our motion. You can ask</p> <p>15 the witness the questions about it.</p> <p>16 We would appreciate, however, and</p> <p>17 request the panel to instruct Mr. Collins, if</p> <p>18 there's any other documents that are being used</p> <p>19 for purposes of examining his own witnesses in</p> <p>20 this case, that were provided to us.</p> <p>21 MR. COLBERT: Mr. Collins, do you</p> <p>22 have any additional documents that you plan to</p> <p>23 use in your case in chief that have not yet been</p> <p>24 turned over to USADA?</p> <p>25 MR. COLLINS: I don't know that I --</p>	<p>Page 624</p> <p>1 yesterday -- I had found out on the phone</p> <p>2 yesterday -- I asked him to fax them here. And</p> <p>3 I didn't receive the fax. In fact, if you</p> <p>4 recall last night, I went out to look for a fax.</p> <p>5 MR. COLBERT: That was the fax you</p> <p>6 were waiting for from --</p> <p>7 MR. COLLINS: Dr. Black.</p> <p>8 MR. COLBERT: -- Dr. Black has not</p> <p>9 sent you the documents yet?</p> <p>10 MR. COLLINS: Well, I said I didn't</p> <p>11 get them. I have an e-mail of the ones, of the</p> <p>12 supplements. I'm sorry. I told him then, I</p> <p>13 didn't get the fax. I called him last night.</p> <p>14 Send me -- so his office was to send me the</p> <p>15 substances Chris Whetstine, they ran the tests</p> <p>16 on. His office manager sent me an e-mail -- or</p> <p>17 actually, I think he sent it to me, and all I</p> <p>18 got was the cover page, and I didn't get the</p> <p>19 attachments with it. So I haven't even seen</p> <p>20 those, but I know they exist.</p> <p>21 MR. COLBERT: So you are saying you</p> <p>22 don't have any documents to give to Mr. Tygart,</p> <p>23 as you sit here today.</p> <p>24 MR. COLLINS: As I sit here right</p> <p>25 now, I have an e-mail that has a PDF file</p>

Page 625	Page 627
<p>1 attached to it, that has the results for the -- 2 MR. COLBERT: If you want to use it, 3 you can e-mail it to the AAA. They can print it 4 out. You can have it, and you can produce it. 5 And if you don't want to do that and you just 6 want to question Dr. Black without using 7 documents, then you can do that. But I would 8 ask you to do one of those two things. 9 MR. COLLINS: Okay. I will see how I 10 can get online. 11 MR. COLBERT: Do you have a PDF? I 12 will fix it for you right now. 13 UNIDENTIFIED SPEAKER: Do you have a 14 memory card? 15 MR. COLLINS: I have got a zip card. 16 MR. COLBERT: I got a flash drive 17 right here. Have you got a USB drive? 18 MR. COLLINS: Yes. 19 MR. COLBERT: Do you have one? 20 If you don't, I've got one right 21 there, you can put it on there, and print it. 22 Stick it on the printer. 23 MR. COLBERT: Actually, I like the 24 big old ones. The new ones are so small that I 25 have to get adapters to put it in. So if you</p>	<p>1 MR. COLBERT: I hear your objection. 2 And -- 3 MR. BOCK: I don't know if it's an 4 objection. I mean... 5 MR. COLBERT: I hear your 6 observation. But from what I hear from 7 Mr. Collins -- and I have no reason to 8 disbelieve him -- is that the -- he's -- some of 9 this information, some of the documents, he's 10 just learned about himself. 11 He has disclosed there will be other 12 relevant information. As far as I can tell, you 13 never asked for any further clarification, nor 14 sought to compel discovery in this case for what 15 he meant by other relevant information. He says 16 he's going to be able to ask Dr. Black. I would 17 suggest that once you see the document, like you 18 did with the last one, when you do your 19 objection, once you see the document, you can 20 decide whether you have a further objection or 21 not. But if we're in this as a search for what 22 actually happened, then, perhaps, we should 23 see -- you ask any questions -- 24 MR. TYGART: It puts us in a very 25 difficult position, because --</p>
Page 626.	Page 628
<p>1 have one, just put it on there and give it to 2 them, and they should be able to print it out 3 for you. 4 MR. BOCK: My only comment, we 5 haven't seen what he's proposing to introduce. 6 We want this process and have operated 7 throughout, wanting this process to be open and 8 to bring in as much evidence as possible. But 9 we also want the process to be fair. And it's 10 very difficult for -- from our standpoint to 11 assure fairness when we're getting documents 12 piecemeal. 13 And in terms of what's been proposed 14 with respect to Dr. Black, I just want to point 15 out that the witness disclosure that was 16 provided to us says it is anticipated that 17 Dr. Black will testify about interpreting test 18 results of Justin Gatlin's April 22nd, 2006, 19 urine sample and other relevant information. 20 We have been given no prior notice 21 that there was any testing on any of the creams, 22 which is extremely significant information. And 23 now, on the last day of the hearing, a couple of 24 hours beforehand, we learn that there's a claim 25 that some creams have been tested. It's just --</p>	<p>1 MR. COLBERT: Mr. Tygart, you crossed 2 the witness repeatedly, demanding why didn't you 3 test the creams, and the witness didn't know. 4 And now, apparently, there will be an answer to 5 that. 6 So I understand you have a problem. 7 But, let's first get the document printed out, 8 let you see it, and the reason I want you to see 9 it now, is before Dr. Black gets on the stand, 10 and we can address it again before Dr. Black 11 testifies. 12 MR. BOCK: That's fine. 13 MR. CAMPBELL: Here's an observation. 14 If they need more time, you should be given 15 whatever you need. 16 MR. TYGART: That's the point. We 17 are in a very difficult position. We have 18 absolutely no objection to any piece of evidence 19 that he wanted to provide to be available for 20 this panel and to be available for us. 21 But for us just now, to be provided 22 a set of documents, tested -- that shows testing 23 that was done that he should have known about 24 for months. This case has been sitting for over 25 a year. We're just in a really difficult</p>

Page 629	Page 631
<p>1 position.</p> <p>2 MR. COLBERT: What I want to do is</p> <p>3 move along. I want you to get the documents</p> <p>4 now. The reason I'm pressing Mr. Collins is,</p> <p>5 give them to you now while we're still examining</p> <p>6 Mr. Nehemiah. You will have time to look at it,</p> <p>7 and then perhaps, we can have another discussion</p> <p>8 with the documents in front of us to see,</p> <p>9 because -- for example, you withdrew your</p> <p>10 objection to the last one, and let's just find</p> <p>11 out --</p> <p>12 MR. TYGART: We don't want him not to</p> <p>13 be able to put in whatever he wants, but at some</p> <p>14 point we need to --</p> <p>15 MR. COLBERT: I understand you have a</p> <p>16 generalized issue with the process. But let's</p> <p>17 move on with this. Let's take a specific look</p> <p>18 at these documents, and find out what they are,</p> <p>19 while we complete the examination with</p> <p>20 Mr. Nehemiah.</p> <p>21 And so if you've loaded -- I seen</p> <p>22 the green blinking. Have you loaded it?</p> <p>23 MR. COLLINS: I have put them over.</p> <p>24 And what I have done, just so the record is</p> <p>25 clear, the e-mail with the supplement results I</p>	<p>1 doesn't help a bit because --</p> <p>2 MR. CAMPBELL: We'll proceed with</p> <p>3 this witness testifying...</p> <p>4 MR. COLBERT: Okay. Ready?</p> <p>5</p> <p>6 EXAMINATION (cont.)</p> <p>7 BY MR. COLLINS:</p> <p>8 Q. Mr. Nehemiah, do you recall</p> <p>9 receiving an e-mail from Chris Whetstine on</p> <p>10 November 26th, 2006?</p> <p>11 A. I do. Yes, I do.</p> <p>12 Q. And do you recall sending an e-mail</p> <p>13 back?</p> <p>14 A. I responded to the e-mail, yes, I</p> <p>15 did.</p> <p>16 Q. Did you threaten him?</p> <p>17 A. No. At no time did I threaten him.</p> <p>18 Q. Okay. Calling your attention to the</p> <p>19 last paragraph in the e-mail you sent to him,</p> <p>20 would you please read that into the record?</p> <p>21 A. Starts out "in closing"?</p> <p>22 Q. Yes.</p> <p>23 A. In closing, Chris, the truth will</p> <p>24 set you free. I don't care if the information</p> <p>25 goes against Justin. I just want you to tell me</p>
Page 630	Page 632
<p>1 received -- or was sent to me at 4:57 and 42</p> <p>2 seconds p.m., Central Daylight Time on July</p> <p>3 29th. I didn't access my e-mail until after</p> <p>4 10:00 that night.</p> <p>5 MR. BOCK: John, we trust you.</p> <p>6 MR. COLLINS: There seems to be</p> <p>7 allegations that I'm hiding stuff.</p> <p>8 MR. CHERIS: John, can we get that</p> <p>9 printed out?</p> <p>10 MR. COLBERT: Let's get it printed</p> <p>11 out, and let's move on.</p> <p>12 MR. COLLINS: Okay.</p> <p>13 MR. BOCK: It's a matter of</p> <p>14 preparation, not about whether we trust you.</p> <p>15 (Brief recess in proceedings.)</p> <p>16 MR. COLBERT: I will ask him to come</p> <p>17 in and bring you the documents as soon as</p> <p>18 they're printed, so there isn't any delay.</p> <p>19 MR. BOCK: We can't view them while</p> <p>20 the witness is testifying, so it doesn't really</p> <p>21 matter.</p> <p>22 MR. CAMPBELL: Well, we can take a</p> <p>23 break after this witness.</p> <p>24 MR. BOCK: I appreciate that, but</p> <p>25 bringing them in right now as soon as possible,</p>	<p>1 the truth. Justin is willing to forgive you if</p> <p>2 you are involved. We just want to move forward,</p> <p>3 and I'm sure you do as well. Look how long you</p> <p>4 have been out of work. I know you knew what was</p> <p>5 going on with Trevor. You have for some time.</p> <p>6 It's your call.</p> <p>7 Q. In sending that e-mail, was it your</p> <p>8 intent to threaten Mr. Whetstine?</p> <p>9 A. I never had any intention to</p> <p>10 threaten Chris. I just thought it was ironic</p> <p>11 that he was sending me an e-mail unsolicited,</p> <p>12 and I just thought he was grandstanding against</p> <p>13 my client out of the blue, which I take</p> <p>14 exception to, but I still was professional in my</p> <p>15 response to him.</p> <p>16 Q. Let me draw your attention to the</p> <p>17 February/March time frame of 2006.</p> <p>18 Do you recall if Justin had any</p> <p>19 physical issues at that time?</p> <p>20 A. Justin was having some problems with</p> <p>21 soreness, tendinitis, I think, something --</p> <p>22 tendinitis-like symptoms behind the knee,</p> <p>23 sprinting, and it was causing him problems. And</p> <p>24 they were concerned that he wasn't to be able to</p> <p>25 progress and might retard his ability to be</p>

Page 633	Page 635
<p>1 ready for his April competitions.</p> <p>2 Q. And how did you learn this?</p> <p>3 A. Justin talks with Britton</p> <p>4 Stackhouse, who was our client service</p> <p>5 coordinator, who talks regularly with the</p> <p>6 clients. And her number one top assignment was</p> <p>7 Justin, so she and Justin talked.</p> <p>8 And then she came to me and informed</p> <p>9 me that Justin was having some problems, that</p> <p>10 Justin wanted to know if Dr. Martini could give</p> <p>11 him an injection. And so had her find out what</p> <p>12 the injection was going to be because I needed</p> <p>13 to call USADA. And call USADA and find out,</p> <p>14 because I know -- again, I have done this same</p> <p>15 thing when I was competing, that there's a</p> <p>16 window, prior to out of competition. You can</p> <p>17 take this, an injection, a corticosteroid,</p> <p>18 whether it's in a sheath or wherever. There are</p> <p>19 certain places it can be. And as long as it's a</p> <p>20 certain amount of days, whether it's ten days</p> <p>21 out of competition, you are fine. If it's</p> <p>22 inside that and it's in your body and you test</p> <p>23 positive, you will be banned.</p> <p>24 I called the USADA hotline, talked</p> <p>25 to -- I think his name was a Dr. Blankenberg --</p>	<p>1 Q. When was that call?</p> <p>2 A. That was actually yesterday, that</p> <p>3 call, because I don't have any documentation</p> <p>4 since it was a recorded line.</p> <p>5 So Dr. -- the doctor at the USA --</p> <p>6 USADA hotline fully is aware of my call to him</p> <p>7 about an injection for Justin Gatlin.</p> <p>8 Q. And that injection was in March of</p> <p>9 2006, approximately March?</p> <p>10 A. Yes. Yes. So, upon getting the</p> <p>11 green light from Dr. -- from the doctor at</p> <p>12 USADA, I, in turn, go back to Britton and let</p> <p>13 her know that she can let Justin know that he</p> <p>14 can get the shot from Dr. Martini.</p> <p>15 Q. I think you may have mentioned it,</p> <p>16 but you, in your career, received a similar-type</p> <p>17 shot?</p> <p>18 A. I did. I had an insertion at the</p> <p>19 hamstring, a problem with that area, and had an</p> <p>20 injection. And it was a -- the principles</p> <p>21 haven't changed. The concept, as far as the</p> <p>22 sheath or the tissue or certain places you can't</p> <p>23 have the injection, because of where it is, and</p> <p>24 it had to be out of competition, X amount of</p> <p>25 days removed from a competition to protect me</p>
Page 634	Page 636
<p>1 anyway, talked to USADA doctor, and he --</p> <p>2 Dr. Richard Hilderbrand -- and he told me that</p> <p>3 it was okay for this shot to be, as long as it</p> <p>4 was ten days out of competition, and this</p> <p>5 competition was about 30 days away, so I said</p> <p>6 there's no problem.</p> <p>7 And I said, Well, I need to make</p> <p>8 sure that you have a record of this</p> <p>9 conversation.</p> <p>10 And he goes, These are recorded.</p> <p>11 And I go, Fine.</p> <p>12 Q. Did you identify yourself in this</p> <p>13 call?</p> <p>14 A. He knows -- yeah, I was Renaldo</p> <p>15 Nehemiah. I'm actually -- I'm still waiting. I</p> <p>16 put in a call recently to tell him to ask for</p> <p>17 the record of the phone call, because they do</p> <p>18 log the calls. And he says, unless they're</p> <p>19 anonymous.</p> <p>20 And I said, No, it wasn't anonymous.</p> <p>21 It's from me. And I said, Do you need to know</p> <p>22 the name of the client as well?</p> <p>23 And he said, Yeah.</p> <p>24 I told him the name of the client,</p> <p>25 and he said he would get back to me.</p>	<p>1 from testing positive. And they are explicit</p> <p>2 about that when they tell you that, and so,</p> <p>3 fortunately, we had a large enough window. It</p> <p>4 was March. He wasn't running again until the</p> <p>5 second week in April.</p> <p>6 Q. After Justin tested positive, have</p> <p>7 you been involved in trying to discover what had</p> <p>8 happened?</p> <p>9 A. Yeah, I have been, again, the</p> <p>10 quarterback.</p> <p>11 I found out very early that no one</p> <p>12 wants to talk to attorneys, meaning Justin's</p> <p>13 attorneys, and so I -- you know, I had to do my</p> <p>14 part, you know. I believe that he was wronged.</p> <p>15 I didn't know how it happened. And I was going</p> <p>16 to try to find out however I could, so I was --</p> <p>17 I made myself available.</p> <p>18 Q. Have you ever heard of a man named</p> <p>19 Angel Heredia, also known as "Memo"?</p> <p>20 A. Yes, I have.</p> <p>21 Q. How did you come to learn of Memo?</p> <p>22 A. I can't tell you the exact month,</p> <p>23 but it was in a New York Times article, that</p> <p>24 they were talking about the BALCO investigation,</p> <p>25 and I guess he was a person of interest. And</p>

<p style="text-align: right;">Page 637</p> <p>1 another man by the name of John Burks, who was 2 listed in the article, was talking about his 3 relationship with Trevor Graham. 4 And I told Justin about the article, 5 and I asked him did he know this John Burks, 6 since John Burks used to work with Trevor 7 Graham. And he knew the name, and he didn't 8 know him personally, but he knew some former 9 athletes or some athletes that might know how to 10 get in touch with him. 11 Q. Did there come a time when you got 12 in touch with Mr. Burks? 13 A. I did. Justin was able to get the 14 phone number. And John Burks, I called him -- I 15 called him several times. He never returned my 16 phone call. 17 But when I did, he made me justify 18 who I was, because he didn't trust me. I guess 19 he felt this may have been federal government or 20 someone, but once I assured him who I was, and I 21 wanted to know what he knew about Memo. I read 22 this article. Your name is now prominently 23 displayed in this article. 24 And he wanted to know why. So, 25 well, obviously, my client has tested positive.</p>	<p style="text-align: right;">Page 639</p> <p>1 there. 2 Q. So sometime within a few months 3 after -- 4 A. Yeah, I can't -- 5 Q. So if I said it was sometime around 6 Thanksgiving, would that seem -- 7 A. That's possible, yes. I don't know 8 the day. I just know I talked to him, yeah. 9 Q. What did you learn when you talked 10 to -- talked to Memo? 11 A. Memo was not a Trevor Graham fan. 12 He spoke only about Trevor wasn't as smart as he 13 thought he was. He disclosed certain tendencies 14 about Trevor Graham, that so many innocent 15 athletes have gotten hurt. He didn't know 16 Justin Gatlin at all, but everything he's read 17 and seen, he liked the guy. And he got on the 18 bandwagon, and said, "If I can do anything to 19 help you guys, I will." 20 Q. Did you, at any time, ask him to do 21 anything to help? 22 A. I did. I asked him to -- if -- 23 well, he told me that over the years that he 24 worked with Trevor, that Trevor was good enough 25 to make his own creams.</p>
<p style="text-align: right;">Page 638</p> <p>1 This Memo character clearly disclosed in this 2 New York Times article that there was a 3 financial dispute between he and Trevor Graham. 4 And I wanted to know if he knew anything about 5 Memo, his relationship with Trevor, how close 6 they worked, if he could tell me about any of 7 Trevor's tendencies. I was trying to find 8 whatever I could that would obviously be a 9 smoking gun to help me have evidence that my 10 client was innocent. 11 Q. Did you ever call Memo? 12 A. John Burk gave Memo my number. Memo 13 called me, and then I called him back, yes. 14 Q. Okay. Do you know approximately 15 when this was? 16 A. I really can't say. I would say in 17 the middle of the summer, I guess. I don't 18 know. 19 Q. Would -- 20 A. It could have been -- let's see, the 21 New York Times article was -- I thought it was 22 around July or shortly after, or just June, 23 shortly after Justin -- that I had found out 24 that Justin had tested positive, so within a 25 three- or four- or five-month period, it was in</p>	<p style="text-align: right;">Page 640</p> <p>1 And I said, Really? And I said, 2 Well, we think it was a cream that contaminated 3 Justin. 4 And he says, Well, if you can give 5 me the information from his results, I have a 6 lab down here in Mexico, I can talk to my 7 people, and we can try to find out. 8 And I said, How are you going to 9 find out? 10 And he goes, Well, I can get all the 11 different measurements on his test, and we can 12 come up with different things. And I'm pretty 13 certain I can find out that, if the cream -- if 14 it was a cream that Trevor used -- or that was 15 used. 16 Q. Did you ever arrange for Justin to 17 talk to Memo? 18 A. I did. Memo wanted to talk to 19 Justin, because he wanted to find out, I guess, 20 specifically, certain things about Trevor. And 21 I was very uneasy about ever allowing Memo to 22 talk to Justin Gatlin directly, so I 23 conference-called it in. 24 Q. Did Memo ever agree to prepare any 25 document or anything?</p>

Page 641

1 A. Yes, he did. He disclosed to us
 2 that he would have his people down in Mexico run
 3 out all these series of tests. He was hell-bent
 4 that Justin was negative, et cetera, et cetera.
 5 All I wanted him to do was tell me if, in fact,
 6 it was a cream, based on all the results. And
 7 he was going to put it in a formalized report
 8 for us.
 9 Q. So, the initial -- your initial
 10 request from Memo is to find out if it was a
 11 cream, and if so, what was in the cream?
 12 A. Correct.
 13 Q. Is that what Memo ended up
 14 telling -- or preparing a report and what the
 15 report said?
 16 A. Memo went every way but what we
 17 asked him to do.
 18 I don't know what he -- I don't
 19 ultimately know what he ended up providing us.
 20 We got a report. It wasn't comprehensive at
 21 all, but it was all about proving that Justin
 22 never even tested positive. And it was -- quite
 23 frankly, I thought it was a waste of our time.
 24 Q. Did there ever come a time when Memo
 25 was to be paid to generate this report?

Page 642

1 A. Yes. Yes.
 2 Q. How did that happen?
 3 A. Memo said there were going to be
 4 expenses involved with getting all these
 5 different scientists and people down there to
 6 run all these different tests. It turned out to
 7 be a bunch of -- I think a bunch of B.S. in
 8 hindsight, but -- and that he wanted to be paid
 9 for his services.
 10 The Gatlins and I discussed it. We
 11 knew that, obviously, we can't have people doing
 12 things for us for free. So we had to expect
 13 that we were going to have to pay something to
 14 have these tests run.
 15 Q. So did you negotiate a price?
 16 A. Yeah. Memo wanted about 12-,
 17 \$13,000. We got it down to \$10,000, of which
 18 five of it would be initially, and then the
 19 other five when the work was completed.
 20 Q. Is that how it went down?
 21 A. No. Actually, he ended up -- he got
 22 the -- he wanted \$5300 of the 5,000 [sic] up
 23 front. And so I sent to accounting at Octagon
 24 an invoice for \$5300 to be sent to Memo. He
 25 provided me with his banking information.

Page 643

1 et cetera. And that was taking place on a
 2 Friday.
 3 So on a Friday, they sent 5300 of
 4 the reported \$10,000. And the following Monday,
 5 they came in, and they made a goof, and they
 6 sent another \$5,300, to Memo, in which I told
 7 them you are not supposed to send \$10,600; it's
 8 supposed to be 5300. So we were after Memo to
 9 get the money back. And he was trying to say he
 10 was going to wire to us. He didn't, so Octagon
 11 had to make up the money. So Memo got away with
 12 10,600.
 13 Throughout repeated conversations
 14 with him -- well, prior to him getting the
 15 money, Memo was my worst nightmare when it came
 16 to -- just a pain in my neck, calling all the
 17 time. Once he got the overpayment, we had to
 18 track him down, and you couldn't get to him but
 19 every now and then. And then he accused me of
 20 calling him a crook. And I said, well, if the
 21 deal ultimately was worth \$10,000, and you got
 22 10,6, just give me the \$600 back. And he never
 23 gave us the \$600 back, so...
 24 So ultimately, you know, when you
 25 are desperate to try to find a way to help your

Page 644

1 client -- you know, in my case, I was shaking
 2 every tree out there. I mean, people were
 3 talking to me. I figured they would talk to me.
 4 And so I didn't know this Memo guy.
 5 If he walked in front of me right now, I
 6 wouldn't even know what he looked like. Justin
 7 really never knew what he looked like either.
 8 So we were just trying to find a way. And when
 9 I heard "creams" and this guy talking about
 10 Trevor and his people knowing how to make
 11 creams, I just said aha, maybe this guy can help
 12 us out, and if we can get close and find out
 13 that it was a cream, great. And that's what it
 14 was all about.
 15 Q. So he never did -- Memo never did
 16 produce anything saying what the cream was?
 17 A. He produced a lot of things that I
 18 couldn't even understand, and not even other
 19 experts that we had, scientists, chemists. They
 20 just said it didn't make a lot of sense. How
 21 could he come up with this explanation when he
 22 didn't have the samples, the true samples?
 23 Memo would tell me he didn't need
 24 the samples; and, you know, different experts,
 25 Well, you do need the samples.

Page 645	Page 647
<p>1 And so to make a long story short, 2 the family and I just thought he was full of it 3 after awhile, because we just weren't getting 4 what we wanted to get from him. 5 Q. You were aware that Justin was 6 cooperating with Jeff Novitzky? 7 A. Yes, I did, and so was I. 8 Q. And you also were cooperating? 9 A. Yes, I was. 10 Q. Did there come a time when you 11 learned that Jeff Novitzky was unhappy that 12 there had been contact with Memo without letting 13 him know that you had contact with Memo? 14 A. Yes, I did learn that. 15 Q. And do you know approximately when 16 you learned that? 17 A. I don't know when, but I got a phone 18 call from you, and you kind of panicked that he 19 was very angry. And I said, Well, no one has 20 ever told me not to talk to anybody. I didn't 21 know that. 22 Q. What happened as soon as you were 23 aware? 24 A. You and I discussed it, because he 25 wasn't talking to you either, and I had never</p>	<p>1 said, so who is -- Chris is out of the picture 2 now, so who is the new massage therapist that 3 you guys are working with? 4 And he said, We're out of that 5 business. 6 And I go, Well, it's probably a 7 smart move. 8 So the athletes are on their own 9 getting their own massage therapists. They're 10 no longer supported by Nike. 11 Q. Did he give you any reason? 12 A. I believed -- he didn't, but I 13 coined it the "Justin Gatlin" rule. 14 Q. Now, you said you talked to Justin a 15 lot? 16 A. Yes. 17 Q. Did you ever ask him whether he 18 knowingly took a banned substance? 19 A. Oh, yeah. I looked him right in his 20 face. Yeah. 21 Q. What did he tell you? 22 A. No, he didn't. 23 MR. COLLINS: Okay. 24 MR. BOCK: What time is your flight, 25 Mr. Nehemiah?</p>
Page 646	Page 648
<p>1 talked to Jeff Novitzky ever. And I offered 2 that maybe I should give him a call. And I 3 called Jeff -- well, I left him a message, and 4 within 30 minutes Jeff Novitzky called me back, 5 and we talked just short of an hour. And I gave 6 him ever phone number I had for Memo. I gave 7 him the bank accounts for Memo. You know, I had 8 full disclosure. 9 Q. Did you send him the Memo memo? 10 A. The Memo memo. 11 Q. The document that Memo had submitted 12 that he had all these weird assertions and 13 nobody could figure out what they were? 14 A. Yeah. I sent him, yeah, when Memo 15 sent -- any correspondence that Memo sent to me 16 and was by e-mail, I would forward it off to 17 Jeff Novitzky, and he would write back in an 18 e-mail, "thank you very much." 19 Q. Have you had any discussions with 20 Nike in 2007 regarding a massage therapist? 21 A. I have. Yes, I have. 22 Q. What did Nike tell you? 23 A. Well, because I still have other 24 clients who are Nike clients and pretty 25 prominent -- actually, it was Tim Phean. And I</p>	<p>1 MR. NEHEMIAH: An hour and 20 2 minutes. 3 MR. COLBERT: You are staying here, 4 so... 5 MR. BOCK: This is -- not going to 6 like this lawyer, apparently, but because, 7 there's no way I can finish your examination in 8 time for you to get your flight. 9 MR. CAMPBELL: Is there any way we 10 can do it later or by telephone, or would you 11 rather do it in person? 12 MR. BOCK: It needs to be done in 13 person. 14 MR. NEHEMIAH: That's fine. There's 15 another flight. It just makes my second flight 16 closer, but that's all right. 17 MR. BOCK: I apologize for that. 18 MR. NEHEMIAH: That's all right. 19 MR. BOCK: There's a document that we 20 were going to be provided yesterday that was 21 apparently an invoice received from Cary 22 Chiropractic for an injection in 2006. Can I 23 take a look at that? 24 MR. COLBERT: Are those multiple 25 copies?</p>

Page 649	Page 651
<p>1 MR. COLLINS: Yes, I made copies for 2 everybody. This is the original, if anybody 3 wants to see the originals. 4 MR. COLBERT: Copies for the panel. 5 MR. BOCK: Should I go ahead? 6 7 EXAMINATION 8 BY MR. BOCK: 9 Q. Well, I think I will start, 10 Mr. Nehemiah, with your conversations with 11 USADA, since we represent USADA. 12 Well, let me back up and ask you 13 another question. The hearing started yesterday 14 at 10 a.m. Since the hearing started, 15 Mr. Collins has been in the room, Mr. Gatlin has 16 been in the room, and Mr. Gatlin's father, and 17 then there is witnesses that testified, and 18 Mrs. Gatlin's aunt. 19 Have you spoken about this case with 20 anyone since 10 a.m. on -- 21 A. Outside of the people you just 22 mentioned? 23 Q. No. Including those people. 24 A. Inquiring as to how it's going, yes. 25 Q. And did you discuss with them some</p>	<p>1 that you called Dr. Hildebrandt; is that right? 2 A. Correct. 3 Q. And that call was made without 4 contact with USADA, was it? I mean, USADA's 5 attorneys, I'm sorry. The people in this room 6 that were representing the United States 7 Anti-Doping Agency? 8 A. Correct. 9 Q. And there's no communication through 10 Mr. Gatlin's counsel to us about that that 11 communication was going to occur. 12 A. That's correct, I guess. I don't 13 know. 14 Q. And there was no effort prior to the 15 start of the hearing yesterday to attempt to 16 acquire that information from USADA; is that 17 correct? 18 A. Prior to the hearing? 19 Q. Yes, sir. 20 A. Well, I looked in my files, 21 beforehand, and there was no record of it. And 22 then -- so, in contacting USADA, I knew that 23 they had -- every call is recorded, and that was 24 their record. 25 So -- but I haven't heard back from</p>
Page 650	Page 652
<p>1 of the testimony that was taking place? 2 A. Pieces of it, yes. 3 Q. And did you understand that there 4 was a strict instruction by the panel to 5 separate witnesses, so that there would not be 6 discussion about testimony that took place in 7 this room? 8 A. I'm not privy to that, no. 9 Q. Your answers were very specific. 10 Did you speak with Mr. Collins about the 11 testimony that took place in this room? 12 A. No. I spoke with Mr. Collins to 13 prepare myself for testimony. 14 Q. And when did that preparation take 15 place? 16 A. 11:00 last night until about 1-ish. 17 MR. BOCK: Travis (Attorneys 18 conferring.) 19 Q. And so I take it that you have heard 20 from Mr. Collins and the same questions that you 21 heard from him today, last night? 22 A. Some of the questions that he was 23 going to ask me about, yes. 24 Q. All right. 25 Another thing you did yesterday was</p>	<p>1 USADA. So I called them, and it wasn't 2 Dr. Hildebrandt that I talked to. It was -- 3 yesterday I talked to Dr. Hildebrandt. So that 4 was the first time that I talked to 5 Dr. Hildebrandt about getting -- actually 6 getting that -- the correspondence of that call 7 back in 2006. 8 Q. And that's one of the things we 9 wanted to clarify, that when you testified about 10 speaking with Dr. Hildebrandt, it was not the 11 individual that -- you never had spoken with him 12 before; is that right? 13 A. I don't recall if it was 14 Dr. Hildebrandt who I spoke to yesterday. It 15 was a doctor, but I don't know if it was 16 Dr. Hildebrandt. 17 Q. Okay. 18 A. Because I directly made sure that 19 when I was on that call with USADA official, I 20 said, How do I know that this is going to be 21 documented who I'm talking to, because if the 22 crap hits the fan, I don't want someone saying 23 they didn't talk to me. 24 And he said, No, these calls are 25 recorded.</p>

Page 653	Page 655
<p>1 And I said, Fine.</p> <p>2 Q. And you specifically recall having</p> <p>3 that conversation?</p> <p>4 A. Oh, yeah, definitely. I did it on</p> <p>5 behalf of my client. Again, it's Justin Gatlin,</p> <p>6 and you are talking about an injection, so I'm</p> <p>7 not going to just talk to a stranger and not be</p> <p>8 able to document it.</p> <p>9 Q. All right. Was it male or a female</p> <p>10 doctor you spoke with at USADA?</p> <p>11 A. Male, it was a male doctor.</p> <p>12 Q. Okay. And the date you testified</p> <p>13 earlier, was sometime around the middle of</p> <p>14 March?</p> <p>15 A. Yes, sir. That's correct.</p> <p>16 Q. And that was after the injection</p> <p>17 Mr. Gatlin had received; is that correct?</p> <p>18 A. No, no. Mr. Gatlin called Britton</p> <p>19 Stackhouse, was talking to Britton Stackhouse,</p> <p>20 who came to me. He was having a problem with</p> <p>21 his leg, and he wanted to know if it would be</p> <p>22 okay to get an injection, but he wanted to make</p> <p>23 sure it was okay, it was legal and legitimate.</p> <p>24 And then we said, Don't do anything.</p> <p>25 Thank you for calling us first. We will get in</p>	<p>1 things. Justin had fluid buildup in the leg,</p> <p>2 some form of tendinitis, so I knew that they</p> <p>3 were draining the leg. I knew they were going</p> <p>4 to inject him with an anti-inflammatory, and,</p> <p>5 you know, corticosteroid.</p> <p>6 Q. Okay.</p> <p>7 A. Yeah.</p> <p>8 Q. All right. And so your</p> <p>9 understanding in mid-March of 2006, was that</p> <p>10 Justin was going to be injected with a</p> <p>11 corticosteroid?</p> <p>12 A. Yes, prior to the season starting,</p> <p>13 yes.</p> <p>14 Q. After you had spoken with him in</p> <p>15 mid-March?</p> <p>16 A. I spoke with Justin in March about a</p> <p>17 problem. Made the call for him.</p> <p>18 Q. In mid-March?</p> <p>19 A. Prior to his competition starting.</p> <p>20 Q. Okay.</p> <p>21 A. Because he was having trouble in</p> <p>22 training. Made the call to USADA, got</p> <p>23 clearance. My office, then conveyed that</p> <p>24 message to Justin, and they went forth with the</p> <p>25 procedures.</p>
Page 654	Page 656
<p>1 touch with USADA. We'll get back to you.</p> <p>2 Q. Okay.</p> <p>3 A. I made the call to USADA.</p> <p>4 Q. Okay.</p> <p>5 A. Britton is my client service, but</p> <p>6 when it comes to serious matters, I jump on the</p> <p>7 sword. So I'm the one that did it.</p> <p>8 Q. Okay.</p> <p>9 A. And then I convey to her, and she</p> <p>10 conveys it to Justin.</p> <p>11 Q. So your understanding was that</p> <p>12 Mr. Gatlin had a -- describe, then, the</p> <p>13 communication that you had with Mr. Gatlin after</p> <p>14 you spoke with USADA?</p> <p>15 A. I told him that the doctor at USADA</p> <p>16 said it was okay to get the injection. I knew</p> <p>17 what the injection was at the time, that</p> <p>18 Dr. Martini wanted to use, and it was outside --</p> <p>19 it was out of the competition, outside the</p> <p>20 window, and it wasn't in jeopardy of being in</p> <p>21 competition test, because he wasn't going to run</p> <p>22 for almost a month.</p> <p>23 Q. Okay. And what was your</p> <p>24 understanding was going to happen there?</p> <p>25 A. Well, it was a combination of</p>	<p>1 Q. All right. All right. And so if</p> <p>2 there was testimony yesterday that the in --</p> <p>3 that the injection occurred on March the 1st,</p> <p>4 there must have been two injections; is that</p> <p>5 right?</p> <p>6 A. The procedure may have been two or</p> <p>7 three injections. It could have been two types</p> <p>8 of medicines.</p> <p>9 Q. Okay. So there could have been --</p> <p>10 A. And the syringe of taking fluid off,</p> <p>11 so there may have been three, for all I know.</p> <p>12 But the process was an anti-inflammatory to help</p> <p>13 him get back to training, take the inflammation</p> <p>14 out.</p> <p>15 Q. Did the USADA individual that you</p> <p>16 are claiming you spoke with in mid-March inform</p> <p>17 you that the process for addressing this sort of</p> <p>18 situation is to fill out an abbreviated TUE,</p> <p>19 known as a TUE form?</p> <p>20 MR. COLLINS: I have one quick</p> <p>21 objection. I believe when I asked in direct</p> <p>22 examination, I said late February, beginning</p> <p>23 March. And I don't think I said mid-March. I</p> <p>24 think that was his testimony. He's</p> <p>25 reclassifying it as mid-March. And on --</p>

<p style="text-align: right;">Page 657</p> <p>1 earlier in cross-examination, you say, "Did it 2 happen mid-March after the shot?" And his 3 response was, "No, it was before the shot." 4 MR. BOCK: John, I'm taking notes 5 here. And it's absolutely inappropriate for you 6 to interject with an objection like that. You 7 were informed by the panel, requested by the 8 panel not to make speaking objections like that 9 yesterday. That is inappropriate. 10 MR. COLLINS: I will ask for a 11 sidebar next time. 12 MR. BOCK: You should. 13 MR. TYGART: Just make the objection. 14 MR. COLBERT: Just make the 15 objection. I understand the objection. 16 Counsel has been asking the 17 questions. I think the witness has been 18 answering the questions accurately, to the best 19 of his ability. And you can always go back on 20 redirect, if you think there's a need for 21 rehabilitation, if you think there is. 22 MR. COLLINS: Okay. 23 MR. BOCK: And I don't mean to be 24 short with anybody, but there's a process here. 25 And I think --</p>	<p style="text-align: right;">Page 659</p> <p>1 finger at Britton, because the buck stops with 2 me. So I made that call. 3 Q. Did you get in a conference call 4 then with Justin to convey? 5 A. I was in Britton's office when she 6 was talking to Justin. She said, Renaldo just 7 walked in. And then she was sharing with him 8 what I had already told her. 9 Q. I see. 10 A. Yes. 11 Q. Were you aware of the injection that 12 Randall Evans was going to give Mr. Gatlin 13 before it occurred in April of 2006? 14 A. I learned of it throughout the 15 course of his communication with Cameron Myler. 16 Q. Okay. And did you learn about any 17 other injections received from Randall Evans? 18 A. I have only known one that was in 19 question, which was a B12. 20 Q. Let me take you back to 2004. We 21 had some pretty specific comments to the media 22 about whether Justin could or should continue to 23 be coached by Trevor Graham; is that fair? 24 MR. COLLINS: I don't mean to 25 interrupt. I just didn't catch the time frame.</p>
<p style="text-align: right;">Page 658</p> <p>1 MR. COLBERT: I have ruled, Counsel. 2 Why don't we just move along, please? 3 Q. (By Mr. Bock) Is Britton Stackhouse 4 your employee? 5 A. She's former now, as of November 6 2006. 7 Q. Okay. Was this anything in relation 8 to her departure that has anything to do with 9 this case? 10 A. No, no, not at all. 11 Q. All right. Was she involved in the 12 communication to USADA? 13 A. No, I was. 14 Q. Because that's not something that 15 you would have permitted? 16 A. No. I mean, as much as I had 17 confidence in Britton, certain things I just 18 took over. I wasn't going to allow something 19 that sensitivity, I wasn't passing the buck. I 20 mean, he's my client and she works for me, so 21 there are instances throughout my management of 22 anybody that works with me, that it's my call. 23 And so, when you are talking about something 24 that could affect his career, I'm going to make 25 the call. I'm not going to have to point the</p>	<p style="text-align: right;">Page 660</p> <p>1 MR. BOCK: In 2004? 2 MR. COLLINS: Okay. 3 A. I remember a quote, one that I 4 recall, which was you are judged by the company 5 you keep. I don't recall seeing anything else I 6 have ever said. 7 Q. (By Mr. Bock) Did you have a 8 sit-down discussion with Justin and/or the 9 members of his family about whether Justin 10 should continue to be coached by Trevor Graham, 11 following the 2004 Olympic Games? 12 A. We had a discussion about Trevor 13 Graham freely making comments, and how we have 14 to have Trevor zip it, because Trevor isn't the 15 most positively received person, and hence, you 16 are judged by the company you keep. So having a 17 coach out there that has been ostracized by the 18 free world in making comments when I thought 19 they were inappropriate, it wasn't healthy for 20 my client, and the timing of it since my client 21 had just won Olympic gold, I thought it wasn't 22 advisable. 23 Q. And what comments were inappropriate 24 that Trevor Graham was saying? 25 A. The night that Justin Gatlin won the</p>

Page 661	Page 663
<p>1 gold medal was the night that he disclosed to 2 the public that he was the one that turned in 3 the syringe. 4 Q. And why was that an inappropriate 5 comment? 6 A. I think it's obvious. You are 7 telling the world that you had access to a 8 previously undetectable steroid, and his top 9 client just won the Olympic gold medal. It was 10 incomprehensible to me, and I was not pleased. 11 If -- it was Justin's moment, and so comments 12 like that were unwarranted. I didn't like it. 13 And, you know, you are judged by the company you 14 keep. So if he's saying those kinds of things, 15 it could, throw a cloud over him, you know, what 16 Justin was trying to accomplish. And this was 17 Justin's moment. It wasn't -- that had no place 18 in what was taking place. 19 So, I was outspoken about it, but I 20 was reserving my comments, but; you know, I 21 thought I was on point. 22 Q. So you thought that the public could 23 draw a connection between the fact that Trevor 24 had access to an undetectable steroid and the 25 athletes that Trevor was coaching?</p>	<p>1 that fell into that category, so I have long 2 since stopped worrying about it. I just watch 3 the performance, and let the powers that be 4 monitor it. Otherwise, I lose my mind trying to 5 enjoy a sport that I love. 6 Q. Have you personally had conflicts 7 with Trevor Graham at any point in time? 8 A. Well, yes, to the point that his 9 arrogance tends to spill over into, he forgets 10 that he's a coach, and he's not the manager. 11 And, you know, I don't tell him how 12 to -- I didn't tell him how to coach, and I 13 wasn't going to have him tell us how to manage. 14 So that's where the conflict was, if we had any. 15 But that was quickly squashed 16 because I just turned to Mom Gatlin, and say, 17 remember the line's in the sand, and he didn't 18 want to challenge the Gatlins. So that's all I 19 ever did. And it was only once or twice, and it 20 was short-lived, maybe a brief conversation. 21 And I would tell Mrs. Gatlin. She would call, 22 because I wasn't going to get in a fight with 23 Trevor. I knew my job. I wanted him to do his 24 job. 25 Q. After June the 15th, 2006, did you</p>
Page 662	Page 664
<p>1 A. Well, I think, Olympic gold medal 2 and someone saying a steroid on the same night 3 was a recipe for potential disaster. And I 4 wasn't pleased, and as his agent and his 5 manager, I had to say something about it. But I 6 was tactful, and I just said, you know, you are 7 judged by the company, meaning that comments 8 like those aren't healthy. And I had the 9 conversation with the family about it, and they 10 ultimately agreed with me. 11 Q. Okay. At that point in time, 2004, 12 were you concerned that just based on either 13 things that you were hearing on the 14 track-and-field circuit or what you were reading 15 in the media, were you concerned about Trevor 16 Graham and whether he was a good influence on 17 his athletes in terms of substances that those 18 athletes used? 19 A. No, only because, there is 20 widespread talk as we sit here today, on any 21 athlete that is performing well, male or female. 22 There's drug discussion. Is he cheating? Is 23 she cheating? Is the coach doing it the right 24 way? Is the coach not doing it the right way? 25 So Trevor Graham was among a host of coaches</p>	<p>1 have any conflict with Trevor? 2 A. June? 3 Q. June 15th, 2006, which was the day 4 that Mr. Gatlin found out about the positive A 5 sample? 6 A. No. I had previous discussion -- 7 well, I had discussions with Trevor Graham from 8 around June 18th to June 23rd at our national 9 championships, and I don't believe I have spoken 10 to Trevor Graham since. 11 Q. Okay. And the discussions were 12 about the positive drug test? 13 A. Trying to figure out, yeah, what 14 happened, how it happened, asking him 15 point-blank, you know, was he involved. 16 Q. Did he have a theory at that point 17 in-time about what happened? 18 A. Yeah, he had several theories, yeah. 19 Q. What did he tell you about his 20 theories? 21 A. Well, initially, he was trying to 22 figure out what it was, and then as was publicly 23 stated to the press by him, he accused Chris 24 Whetstone. 25 Q. And he accused Chris Whetstone -- he</p>

<p style="text-align: right;">Page 665</p> <p>1 accused Chris Whetstine publicly. What did he 2 say to you about Chris Whetstine? 3 A. I don't know if he said it to me. 4 He said it to the press that Chris Whetstine had 5 put a cream on him. 6 Q. Well, the way we got there, was I 7 was asking you about your conversations with him 8 from June 18th to June 23rd. 9 A. Right. 10 Q. Did he raise the issue of Chris 11 Whetstine at that time? 12 A. Initially, he raised the -- the 13 discussion was about there was a cream, and they 14 were trying to figure out what kind of cream. 15 Was Chris using creams? And he recalled seeing 16 certain creams. 17 And so it was all about, we need to 18 find out if this is the cream to use, and then 19 if it is, we need to find out if this cream is a 20 legal cream. And then shortly thereafter -- I 21 don't know exact day -- or if it was -- that he 22 eventually came out and said, he assumed Chris 23 Whetstine was responsible. 24 Q. So sometime in between June 18th and 25 June 23rd, Trevor Graham said it was a cream</p>	<p style="text-align: right;">Page 667</p> <p>1 white tube with a squiggly line, and it actually 2 came out to be the female version of DHEA. 3 Q. Did he say anything else about the 4 tube? 5 A. No, not at all. Just said it had a 6 squiggly S kind of thing, a pink squiggly S. 7 And for the research, that it was DHEA, but it 8 was a female version. 9 Q. So I assume if he was talking about 10 a tube with a squiggly S on it, he was also 11 talking about Chris Whetstine at that time? 12 A. Well, a tube that he had seen in 13 Chris's possession and using on Justin, yeah. 14 Q. And Trevor told you that that was a 15 DHEA cream? 16 A. No, we found out that it was DHEA. 17 Trevor -- we had Trevor take us through this 18 process of what this tube looks like. And so 19 Trevor went online, located this tube, and he 20 said "that's it," and that's what it said 21 underneath it, DHEA. 22 Q. Were you with him while he was 23 online? 24 A. Not when he navigated it. When I 25 saw it online, it was there, it was on the</p>
<p style="text-align: right;">Page 666</p> <p>1 that caused the positive test result? 2 A. He felt it was, yes. 3 Q. Do you know why? 4 A. I have no idea why. 5 Q. Was anybody else present when he 6 told you it was a cream? 7 A. Gatlins may have been present at one 8 point during that -- the national championships, 9 when that discussion came out. We were on 10 conference call with the attorneys when he 11 described the cream, the tube that the cream 12 came in. I was -- 13 Q. What was -- I'm sorry. Go ahead. 14 A. For me, I just -- you know, whether 15 it was Trevor or it was Chris or whoever, I knew 16 that between the two of them, somebody had to 17 know what happened. 18 Q. And when he described the tube that 19 the cream came in back in June of 2003, what did 20 Trevor Graham say? 21 A. He described the tube back in June 22 of 2006. 23 Q. I said "3." I meant "6." I'm 24 sorry. Thank you for correcting me. 25 A. Okay. Initially, he said it was a</p>	<p style="text-align: right;">Page 668</p> <p>1 laptop. 2 Q. And did he come up with -- did he 3 navigate while you were sitting there? 4 A. Never did. Never did. 5 Q. How did it come about that it came 6 up on -- whose laptop? 7 A. It was his. 8 Q. Okay. How did it come up -- about 9 that it came up on Trevor's laptop? 10 A. It was about midnight, I think the 11 night of the -- actually the night of the 18th, 12 when we first arrived that Justin told me that 13 Trevor wanted to see me. I was staying at the 14 Hyatt Regency; Trevor was staying at the Westin. 15 I walked over to the Westin. Trevor was in the 16 lobby lounge, and he had a laptop sitting on his 17 desk. And right there in front of me, he says, 18 This is what I saw Chris using on Justin. 19 And I looked at it, and I go okay. 20 And he says, That's the squiggly S, 21 and it said DHEA. 22 Q. So, at that point in time, did you 23 feel like you knew the source of the positive 24 test? 25 A. No, no. I just felt it was too</p>

Page 669

1 convenient.
 2 Q. Why is that?
 3 A. I -- you know, just -- you know, you
 4 hear about all the rumors, you have all these
 5 thoughts in your mind, so at that point, I
 6 wasn't believing -- believing him at all. I
 7 mean, I didn't have any reason to. I didn't
 8 have any reason not to, but I was just taking it
 9 all in.
 10 And since I wasn't representing
 11 Justin from a legal standpoint, we directed that
 12 information to his attorneys, and it was up to
 13 them to decide the veracity of it. I mean --
 14 but I just -- it was just strange to me, but,
 15 you know, when I asked him how he found it, he
 16 just said, he knew it had -- it was a cream, he
 17 saw him using it, he was surfing the Net.
 18 And I just said, You know what?
 19 Okay, this is the information. We will pass it
 20 off to the attorneys, and I left it at that.
 21 Q. Was there any discussion about going
 22 to USADA at that point, and saying, Look, here's
 23 this information. It's June the 18th. Now this
 24 is even public. The B sample's not even been
 25 done. Let's tell them what we know.

Page 670

1 A. That's not my role.
 2 Q. I understand. Was there any
 3 discussion about it?
 4 A. The only thing I recall, and I don't
 5 know specifics of it, but countless
 6 conversations with Cameron saying that she had
 7 conversations with Travis --
 8 Q. You probably can't tell me --
 9 A. -- so I don't know what those
 10 conversations entailed and what those
 11 conversations were about.
 12 Q. I guess conversations with Travis,
 13 we can talk about.
 14 MR. COLLINS: She wasn't his lawyer,
 15 so that's not a privileged communication.
 16 MR. BOCK: Yeah, okay. I don't
 17 know -- okay. If you don't consider it
 18 privileged, that's fine.
 19 Q. (By Mr. Bock) So there was no
 20 specific conversation about Trevor going to
 21 USADA and revealing what he had told you?
 22 A. I'm not privy to that, no.
 23 Q. Now, as I ask these --
 24 MR. COLLINS: Did you guys already
 25 take copies of these?

Page 671

1 MR. COLBERT: You have got all the
 2 copies.
 3 MR. COLLINS: I didn't know they came
 4 to me. They came from that direction.
 5 Q. (By Mr. Bock) Let's talk about your
 6 interactions with Memo.
 7 A. Okay.
 8 Q. That article that you saw that
 9 caused you to give him a call, that was -- you
 10 testified, I think an article in the New York
 11 Times?
 12 A. It was in the New York Times,
 13 correct.
 14 Q. Did that article describe Memo as a
 15 supplier of drugs for Trevor Graham?
 16 A. No. I don't know exactly, but I
 17 recall it describing him as a person that the
 18 federal government was interested in; talked
 19 about his -- he had a relationship with Trevor
 20 Graham that had gone badly over the financial
 21 dispute; and -- but this was being told through
 22 the eyes of John Burks, because John Burks was
 23 telling this story. And so I had seen the memo
 24 in relationship to Trevor. John Burks was a
 25 former -- whether it was an assistant coach, or

Page 672

1 someone who worked along with Trevor -- so
 2 between the two of them, I was trying to find
 3 out if I could find a way to get closer to what
 4 really could have happened to my client.
 5 Q. Did you know Memo's age?
 6 A. No. I don't know anything about
 7 him, just the name "Memo."
 8 Q. So -- and I think you testified that
 9 you never saw him in person, just talked over
 10 the phone?
 11 A. Voice on the phone.
 12 Q. And that voice over the phone, you
 13 realized, was cooperating with the government?
 14 A. I didn't know anything about that.
 15 Q. I thought you said that he was in
 16 the article.
 17 A. No, that he was a person of interest
 18 with the government. I don't know if he was
 19 cooperating. I never got that.
 20 Q. Did you ask him?
 21 A. No. I never -- naively, I never
 22 thought I -- you know, he would tell me if he
 23 could talk to me or not talk to me. And in my
 24 full disclosure to Jeff Novitzky, I had nothing
 25 to hide. I was just asking the guy questions.

Page 673	<p>1 So I felt somebody would tell me, you can't talk</p> <p>2 to him, or I can't talk to you, or don't talk to</p> <p>3 him. And no one ever said that to me.</p> <p>4 Q. And so you -- where is Memo located?</p> <p>5 A. Who knows? He talked about Mexico.</p> <p>6 He talked -- the bank was in Laredo, Texas, but</p> <p>7 he shuffled around phone numbers to me. You</p> <p>8 know, I had three different phone numbers to</p> <p>9 call him. And he would get back to me. It was</p> <p>10 one of those "leave a message and I will get</p> <p>11 back to you," and it would be a day or two, or</p> <p>12 hours later, so, again -- you know.</p> <p>13 Q. How did you make the initial contact</p> <p>14 with him?</p> <p>15 A. John Burks got him to call me. John</p> <p>16 Burks never gave me his information. John Burks</p> <p>17 gave him my information, and he called me.</p> <p>18 Q. Okay. And when did you first start</p> <p>19 having concerns with this relationship with</p> <p>20 Memo?</p> <p>21 A. Concerns of what, between who?</p> <p>22 Q. Well, did you at any point have any</p> <p>23 cautions, here's a guy who's moving around. You</p> <p>24 don't know where he is. You don't know much</p> <p>25 about his background. You are talking with him</p>	Page 675	<p>1 Q. The cream that Trevor Graham showed</p> <p>2 you, on -- whatever it was, what he showed you</p> <p>3 on his computer?</p> <p>4 A. Mm-hm.</p> <p>5 Q. You weren't buying that story. You</p> <p>6 were looking for another kind of cream; is that</p> <p>7 right?</p> <p>8 A. I didn't care what kind of cream it</p> <p>9 was. If it was a cream, I just wanted to find</p> <p>10 out what kind of cream, the chemical makeup of</p> <p>11 the cream that could give us relevance to</p> <p>12 proving my client's innocence.</p> <p>13 So when Trevor showed me the</p> <p>14 squiggly S, it could have an A, a Z. It didn't</p> <p>15 matter what it was. I had never seen it. I'm</p> <p>16 not -- I have never been exposed to that world,</p> <p>17 so even when I saw it, it didn't mean anything</p> <p>18 to me; like, okay, I will pass it on to the</p> <p>19 attorneys. When Memo talked about a cream, he</p> <p>20 could have been talking about that same tube.</p> <p>21 It wouldn't have struck a chord with me outside</p> <p>22 of if he would have said a squiggly S, and I</p> <p>23 would have said, Oh, I've heard that before.</p> <p>24 Q. But you were trying -- after</p> <p>25 Thanksgiving, in 2006, you are still trying to</p>
Page 674	<p>1 about how somebody got doped. Did you ever have</p> <p>2 any cautions felt --</p> <p>3 A. Well, the one thing that I knew that</p> <p>4 I wasn't doing anything wrong by asking</p> <p>5 questions. And based on what I read, he knew</p> <p>6 Trevor Graham. He had a relationship with</p> <p>7 Trevor Graham. And if it's drugs, I figured</p> <p>8 they're on the move, they're willing to do</p> <p>9 whatever.</p> <p>10 I didn't care about all that,</p> <p>11 because I just I want to know, if you could</p> <p>12 point me to what it was, at the end of the day.</p> <p>13 And so I was the rookie Inspector Clouseau, if</p> <p>14 you will. And, you know, I didn't have anything</p> <p>15 to hide; I was just asking him naively innocent</p> <p>16 questions to get closer to the truth.</p> <p>17 Q. All right. And this was, as</p> <p>18 Mr. Collins pointed out, sometime around</p> <p>19 Thanksgiving 2006?</p> <p>20 A. Yeah, fall, yeah.</p> <p>21 Q. So to use your terminology, this</p> <p>22 Inspector Clouseau didn't believe it was the</p> <p>23 Sarati cream. You were trying to find out what</p> <p>24 other cream --</p> <p>25 A. What did you call that?</p>	Page 676	<p>1 find out what kind of cream it was?</p> <p>2 A. Yeah, I'm trying to find out, if</p> <p>3 it's a cream, the contents of that cream. Are</p> <p>4 they consistent with what would cause a positive</p> <p>5 result in my client's urine?</p> <p>6 Q. Why weren't you looking to find out</p> <p>7 whether it could have been a pill? Whether it</p> <p>8 could have been a supplement, or --</p> <p>9 A. Well, I think, in my e-mail</p> <p>10 correspondence to Chris Whetstine, all I wanted</p> <p>11 was the truth, whatever it is. So, up until</p> <p>12 that point, the world was talking about the</p> <p>13 creams, meaning people in the know, Memo, who</p> <p>14 was very confident that he taught Trevor pretty</p> <p>15 well, and Trevor can make up creams, and those</p> <p>16 guys use creams, and he felt very confident that</p> <p>17 Trevor himself wasn't doing it, but there were</p> <p>18 people doing it. So ...</p> <p>19 Q. Why was he confident that Trevor</p> <p>20 himself didn't do it if he taught Trevor how to</p> <p>21 do it?</p> <p>22 A. Trevor could make it up, but Trevor</p> <p>23 wasn't applying it, you know. I used the</p> <p>24 analogy that if Trevor was involved, he was the</p> <p>25 Godfather. He'd watch it happen. So Trevor</p>

Page 677	Page 679
<p>1 could stand on the sideline, and if you asked 2 him did he do it, he said no. And guess what? 3 He didn't do it, but other people did. 4 Q. Did -- as you sit here today -- 5 A. And I watched Trevor at meets, and 6 Trevor was always standing to the side watching 7 Chris Whetstine or whoever work on the clients. 8 Q. As you sit here today, do you 9 believe that the Godfather is responsible for 10 this positive test result? 11 A. My gut has always been until proven 12 otherwise, that he knows something about it. 13 Whether he did it himself, I don't know, but I 14 have always felt that between he and Chris, 15 therein lies the answer. 16 Q. How about Randall Evans, did you 17 have concerns about him? 18 A. I didn't know much about Randall. I 19 didn't know what his real true role was. 20 Sometimes, when -- if Trevor couldn't go to the 21 meets, Randall would go, so he was kind of just 22 watching over Justin, but I didn't necessarily 23 think he was his coach. Trevor was, but I 24 didn't know that much about it. 25 Q. Did you know that he was providing</p>	<p>1 didn't call USADA and provide that information 2 on behalf of your client or on behalf of 3 yourself? 4 A. I provided that information to the 5 attorney. I mean, again, I played the 6 quarterback, so any information I got, I 7 forwarded it on. I mean, ad nauseam. I was 8 writing notes. Every time I picked up the phone 9 and talked to anybody, a plethora of notes here, 10 and I would call Cameron Myler and Brian and 11 read verbatim what I just wrote down after a 12 conversation. 13 Q. Okay. As the quarterback on the 14 team, did you -- there was some testimony 15 yesterday about who could have done what, 16 whether certain agencies should have acted that 17 maybe would have prevented this positive test 18 result. 19 Did you, as Trevor's agent -- Trevor 20 -- sorry -- as Justin Gatlin's agent ever 21 conduct an investigation concerning Trevor 22 Graham or Randall Evans or, you know, background 23 checks on them? 24 A. No. They fall under the auspices of 25 USA Track and Field. And so -- I mean, one of</p>
Page 678	Page 680
<p>1 medical care in the form of an injection through 2 your client? 3 A. Again, I have only heard of one 4 injection, which was a B12 pill, and that was in 5 the offices of Cameron Myler in New York City, 6 when they were discussing a B12 shot. 7 Q. Okay. So that was the first time -- 8 you didn't know -- 9 A. First and only time, I heard about 10 it. 11 Q. Okay. Have you come across any 12 other concerns about Randall Evans' character or 13 his connection with prohibited substances? 14 A. Well, we know through a -- special 15 investigators that he has a less-than-stellar 16 past, whether it's domestic abuse and some 17 other -- I don't know if they're petty, but 18 criminal activities. I can't specifically say 19 if they were drug-related, but I know that he's 20 had his run-ins. 21 Q. Question: You finding out from Memo 22 that he has information that a USA Track and 23 Field coach named Trevor Graham is mixing 24 creams, involved with getting prohibited 25 substances to athletes, just a question why you</p>	<p>1 my concerns -- I'm on the agent screening 2 committee and the agent certification committee. 3 For U.S. Track and Field, I'm on the 4 disciplinary committee and at the IAAF level, so 5 we have those mechanisms that I actively 6 participate in monitoring what we do as agents. 7 So one would assume, since they have 8 been around longer than our formalized agent 9 group, that USOC, USA Track and Field all would 10 have. I find it kind of ironic that as soon as 11 Justin Gatlin got in trouble, Trevor Graham was 12 expelled from every possible venue, but not when 13 Marion Jones was called into question, Tim 14 Montgomery was called into question, Kelli 15 White, all these different people had to work 16 with -- whether it was Chris Whetstine or Trevor 17 Graham. So if they could work that efficiently 18 then, now, they could have been doing it all 19 along. 20 And if we have to be monitored, why 21 shouldn't coaches? 22 So it's not -- the onus isn't on me. 23 The onus is -- for instance, John Smith is 24 rumored to have been a drug coach. He's had 25 several clients that test positive. John Smith</p>

Page 681	Page 683
<p>1 was a 2005 world championship coach, and people 2 were up in arms about that, but he's a coach in 3 good standing, whether I like it or not. 4 Whether I believe he's a clean coach or not, it 5 doesn't matter. He's recognized by everybody, 6 domestic and internationally, as a coach in good 7 standing. Thus was Trevor Graham. 8 So, my personal feelings didn't 9 matter. He was getting credentialed. He was 10 passing their smell test. And if I didn't 11 have -- outside of what I thought or heard out 12 in the rumbings in the hotel lobbies, that's 13 not enough for me to go with any concrete 14 information. You know, I don't have facts. I 15 have people just talking. 16 Q. Well, you conducted an investigation 17 for Mr. Gatlin, so I guess my point is, it's 18 fair to say that there's nothing that prohibited 19 you from conducting a background information of 20 coaches for your client, was there? 21 A. Well, the attorneys did. They hired 22 private investigators who came back with the 23 information on Randall, came back with the 24 information on Trevor Graham, but I mean, as far 25 as what his legitimacy as a coach --</p>	<p>1 Graham said. I wanted his take on it. I didn't 2 have information to prove he did it or didn't do 3 it. 4 Q. But you believed the answer lay with 5 him or Trevor Graham? 6 A. I believe the answer lied with Chris 7 Whetstine because in this same document, 8 November 26th, I shared with Chris a 9 conversation that Chris candidly had with me 10 about his personal knowledge of one, two, three 11 different instances that involved drug 12 paraphernalia, drug supplies, that he was either 13 asked to purchase or he saw being purchased. 14 And he held himself out to me as a man of 15 integrity. 16 And I said, yeah, but you are still 17 working with the people that solicited you to go 18 buy the drugs, still working with the people 19 that you saw buy drugs, and I'm supposed to 20 think that you are a man of high integrity. 21 And then he'd tell me he had enough 22 information to bury both Trevor Graham and his 23 wife, and when it comes to asking about my 24 client, his lips are sealed. 25 Wait a minute, if you are that close</p>
Page 682	Page 684
<p>1 Q. Backing you up to the point at which 2 you were hired -- 3 A. Hired by who? 4 Q. By Mr. Gatlin. 5 A. I manage Mr. Gatlin's career, yes. 6 Q. Okay. That's okay. It's probably 7 not that relevant. 8 A. Well, Mr. Gatlin had hired 9 Mr. Graham before I ever came into his career. 10 That was a preexisting coach, that everything 11 was fine. So all I did was take over for the 12 new -- the agent that was terminated. I didn't 13 hire the coach. I didn't participate in the 14 hiring of that coach. 15 Q. Okay. Let's talk a little bit about 16 Chris Whetstine. I understand that you had had 17 some communications with him. 18 You provided this e-mail, which we 19 will get to -- or e-mail -- sorry, but did you 20 have any phone conversations with him? 21 A. I would call Chris to, one, see how 22 he was doing; number two, to see if he had any 23 information that he could share with me that 24 could help shed light on what had happened. I 25 discussed openly with him about what Trevor</p>	<p>1 to this, you have to know what's been going on. 2 So those are the types of conversations I had 3 with Chris. 4 Q. And you're frustrated with him. 5 A. I'm frustrated with him when he 6 sends me unsolicited newspaper articles that 7 are, you know, unfavorable about my client, and 8 he's telling everybody that he would never do 9 such a thing, and then he tells me that he 10 watches somebody buy testosterone who is in his 11 camp, and he does nothing about it. He watches 12 a coach and an agent ask him to buy -- give him 13 a list of drugs to go buy in the 2000 Olympic 14 Games, and then he decides, no, I'm not going to 15 do that, and he comes back and he still has the 16 list. He says nothing to anyone, and he's still 17 working for them. 18 Q. And you found that frustrating; 19 fair? 20 A. I found that, you know, it was 21 hypocrisy is what I thought, and I thought he 22 was full of it, because, I thought, you know, if 23 you are that noble and you're not involved, what 24 do you have to lose? 25 Q. And so then you expressed those</p>

Page 685

1 feelings to Chris Whetstine?
 2 A. Definitely. Not in the same tone
 3 I'm doing right now. I was -- you know, I just
 4 asked the questions, I begged the questions in
 5 my e-mail. I'm not -- I can vent behind the
 6 scenes, but when I talk to anyone, I articulate
 7 in a different way, just because I need to get
 8 what I need out of them, if I'm able to, so I'm
 9 not going to become confrontational.
 10 Q. Okay. And the information that you
 11 were receiving from Chris Whetstine was that
 12 Trevor Graham was providing drugs to athletes,
 13 correct?
 14 A. That Trevor Graham provided him a
 15 list to buy drugs years ago.
 16 Q. Okay.
 17 A. I don't know what he did, was doing
 18 with it. I can't go that far.
 19 Q. All right. And that Randall Evans
 20 had purchased testosterone.
 21 A. Correct, in Mexico.
 22 Q. And did Chris Whetstine offer to you
 23 to take a polygraph examination?
 24 A. He's bragged about taking one, you
 25 know --

Page 686

1 Q. Okay. And did you pass --
 2 A. -- publicly, but --
 3 Q. Did you pass that on to the lawyers,
 4 that he was willing to take a polygraph
 5 examination?
 6 A. He's told the lawyers that. He
 7 didn't have to tell me. He's told them.
 8 Q. You were asked by Mr. Collins on his
 9 direct examination about various conversations
 10 that you had with Mr. Whetstine about his
 11 financial means; do you recall that?
 12 A. Yes, sir.
 13 Q. And you indicated in response to his
 14 questions that he had a financial need; is that
 15 right?
 16 A. Chris did, yes.
 17 Q. And one aspect of that need was the
 18 need to provide for his son, correct?
 19 A. Correct.
 20 Q. Do you have any idea why Chris
 21 Whetstine would try to do something that would
 22 eliminate the source of his income with Nike?
 23 A. Why would he do something to
 24 eliminate his source of income?
 25 Q. Yeah. Let me put it this way:

Page 687

1 Justin Gatlin was a source of income, wasn't he,
 2 indirectly?
 3 A. Indirectly, mm-hm.
 4 Q. Why would Chris Whetstine, in
 5 financial need, try to undercut his source of
 6 income?
 7 A. I can hypothesize for a variety of
 8 reasons, you know.
 9 Again, if you are pissed off at
 10 someone --
 11 MR. COLLINS: I think I'm going to
 12 object. It's a hypothesis. If you want to have
 13 him hypothesize, you can, but ...
 14 MR. COLBERT: How much is this
 15 rhetorical, Mr. Bock?
 16 Q. (By Mr. Bock) Let me just ask a
 17 question in a different way.
 18 Do you know -- is -- the objection
 19 has been that it's hypothetical that he would do
 20 that, or that -- what his motives were. And do
 21 you agree that any conclusions you would draw
 22 about his motives would be hypothetical?
 23 MR. COLLINS: Object on that.
 24 MR. COLBERT: I guess what I'm asking
 25 you is: Are you asking him whether the witness

Page 688

1 has any conclusions, or asking him to speculate
 2 as to what conclusions he might draw if he drew
 3 them, which seems to me to be a little farther
 4 afield than asking him what his conclusions
 5 might be.
 6 MR. BOCK: Thank you.
 7 MR. COLBERT: All right.
 8 Q. (By Mr. Bock) I think I've been
 9 asked -- or suggested that maybe I could ask you
 10 about whether you have any conclusions about
 11 Mr. Whetstine's motivation?
 12 A. Yes. If I have drawn any
 13 conclusions as a possible scenario which would
 14 involve Chris Whetstine, I feel it is very
 15 plausible that Chris Whetstine, because of
 16 conversations I have had with him being upset
 17 about money, being upset about the way he felt
 18 that he was personally treated and talked to
 19 from time to time between Trevor Graham and my
 20 client Justin Gatlin, that it is very possible
 21 that he could have done this, just as easily as
 22 it was -- it was the perfect crime, because,
 23 Trevor Graham was public enemy Number 1. I
 24 could have done it, and they all would have said
 25 Trevor Graham.

Page 689	Page 691
<p>1 So I don't know if Chris Whetstine 2 did it, but it is very plausible that he could 3 have done it and gotten away with it, because 4 they weren't looking at Chris. They were all 5 looking at Trevor Graham, and they had been 6 looking at him for a long time. So Trevor 7 Graham was the perfect pigeon. I'm not saying 8 that he didn't do it. But you were asking me is 9 it plausible.</p> <p>10 Q. No, I appreciate that. 11 And you have no reason to believe 12 that he would have a motivation to do it other 13 than the dispute over money, the dispute over 14 \$5,000; is that correct?</p> <p>15 A. I don't know if it's the \$5,000. I 16 have never taken a side. I just want the 17 answer. I stay consistent with my e-mail to 18 him. I don't care who did it. I just want to 19 know who did it.</p> <p>20 Q. I'm just saying in terms of you said 21 it's plausible, and the basis upon which you say 22 that it's plausible is limited to the dispute 23 over the money.</p> <p>24 MR. COLBERT: I don't think that was 25 the witness's testimony.</p>	<p>1 very much for your testimony. I don't have any 2 other questions. Pass the witness.</p> <p>3 MR. COLBERT: Do you have anything 4 further, Mr. Collins? 5 MR. COLLINS: No. 6 MR. COLBERT: Mr. Campbell? 7</p> <p>8 EXAMINATION 9 BY MR. CAMPBELL: 10 Q. Well, I'm a little bit confused 11 about this date. This is a March 1st injection 12 date, and then as you were asked, you said the 13 conversations took place before the injections. 14 That would seem to me to be February. Can you 15 clarify? 16 A. Well, I can't specifically recall 17 the date. I just know that there was one 18 discussion with my client about needing and 19 wanting to have an injection. Then there was a 20 follow-up conversation with myself with USADA 21 and a doctor at USADA, and it was that early 22 time. So I don't know exactly when it was. 23 And subsequently, the injections 24 took place. That's the only time the injections 25 took place, and that's the only time the</p>
Page 690	Page 692
<p>1 MR. BOCK: I'm just asking if that's 2 the case. 3 MR. COLBERT: I think it's been asked 4 and answered, but you can answer -- ask it 5 again. 6 A. Well, Justin Gatlin, even in his own 7 words, is multi-million dollar client. Chris 8 Whetstine is a physio employed by Nike, so even 9 if he's hurting himself, he's hurt him too. So, 10 you know, from a vindictive standpoint, yeah, I 11 might be cutting off my throat, but I cut off 12 yours too. 13 I mean, so -- I don't sit around 14 thinking like that, and that's for his legal 15 team to try to figure that out, but I -- you 16 know, I've had to consider all of these. I have 17 never had anything against Chris Whetstine. I 18 never was one to automatically jump on Chris 19 Whetstine, but I have had to consider the 20 possibility that Chris Whetstine could be 21 involved. 22 Q. And as you sit here today, you don't 23 know whether he's involved, correct? 24 A. That is correct. 25 MR. BOCK: Mr. Nehemiah, thank you</p>	<p>1 conversation took place. 2 To have me pinpoint whether it was 3 March 1st, 12th, 13th, I couldn't tell you that, 4 but I know it was early, and it was one time 5 that Justin called me up and wanted to know 6 about the injections. 7 Q. Okay: 8 Yes, and I have another question 9 too. 10 What do you do with respect to your 11 athletes in terms of talking to them about Chris 12 Whetstine, his treatments? Have you had any 13 conversations with your clients? How many 14 clients do you have that are treated by Chris 15 Whetstine or have been? 16 A. Let's see. James Carter was one. 17 Justin Gatlin. And Allyson Felix was treated 18 one time by him. 19 Again, I guess we all are -- we all 20 are -- have blinders on when it comes to the 21 physio. He's hired by Nike, everything must be 22 okay. And I don't know if there are any 23 regulatory bodies. Apparently, there aren't. 24 But outside of me thinking that they use basic, 25 you know, massage oils and basic Johnson &</p>

<p style="text-align: right;">Page 693</p> <p>1 Johnson creams and Voltaren, I really don't know 2 that much about it. 3 Q. How long have you been involved in 4 track, did you say? 5 A. Track and field as an athlete, since 6 '76, but as an agent, probably ten-plus years. 7 And the other mindset, just so you 8 know from my point of view, is that I want to do 9 what I do, and that is on this management side, 10 that's what I do. I'm not really involved in 11 the physio side and the coaching side. And 12 because of all of those concerns, I do not want 13 to get pulled into that, but I'm a part of that 14 whole scenario, no matter what it is, because 15 it's easy to get pulled into it. So I know I 16 manage, and I do the day-to-day operations, and 17 I don't do coaching and I don't do massage. I 18 don't really want to know about all of that. 19 And -- 20 Q. I can appreciate that. 21 Are you aware of any instances where 22 either the IAAF or USA Track and Field, Nike or 23 anybody has sat down and talked with athletes 24 and told them, hey, if you get a massage from a 25 therapist, you need to check out all of the</p>	<p style="text-align: right;">Page 695</p> <p>1 sports organizations? 2 A. Correct, every one. 3 Q. And which sports organizations 4 provide the tent? 5 A. Local organizing committee, U.S. 6 Track and Field. If it's a USA Track and 7 Field-sanctioned event, if in this country. 8 It's an IAAF event, sanctioned if it's out of 9 the country. And they usually -- for instance, 10 if there's a meet at the national championships, 11 they have whatever approved or accredited 12 physios who do their ranking system or earn the 13 right to be on teams. There are maybe six or 14 seven of them who are designated to be there, in 15 case an athlete doesn't have his or her own 16 massage -- personal massage therapist. And then 17 in that tent, there's any of 30. But there's no 18 one walking around monitoring creams, what 19 they're doing, nothing. 20 Q. Are you with the IAAF, did I hear 21 you say? 22 A. I'm on the disciplinary board for 23 agents. 24 Q. For agents? 25 A. Yes.</p>
<p style="text-align: right;">Page 694</p> <p>1 items that they massage you with? 2 A. No. The blanket statement is that 3 the athlete is responsible for what goes in or 4 on his body, which if any of you ever had a 5 massage, a massage therapist could show you the 6 tube, you lay your head down in that donut, you 7 have no idea what's going on behind you. 8 And I think it is a reach -- I'm not 9 saying that physios are out there doing it -- 10 but it is a reach to think that some guy or 11 young lady is laying down getting a massage, and 12 they have put their livelihood at stake on this 13 person, and this person, whether it's a good 14 intentions or bad intentions, and you are 15 expecting them to turn back around the whole 16 time you are getting a massage and see 17 everything that you are doing? I mean, if you 18 go to a track meet, there's a tent full of 19 massage therapists. It's not regulated, it's 20 not monitored, and God knows what's going on in 21 there. 22 Q. Are there any warnings up in any of 23 these tents with massage therapists? 24 A. None. 25 Q. Are these tents provided by the</p>	<p style="text-align: right;">Page 696</p> <p>1 Q. So, as far as you know, from your 2 participation as an athlete and as an agent, if 3 the massage therapists are sanctioned by -- or 4 not sanctioned -- but allowed to do their job by 5 both IAAF and USA Track and Field? 6 A. Without regulation. 7 Q. Given what you know now, do you 8 think it would be your responsibility to sort of 9 monitor, even those sort of activities by your 10 client? 11 A. I understand your question. It's 12 not a practical one, because if you had -- if 13 you have one client, two clients, you could 14 probably do that. You have 10 clients, 12 15 clients or more, you can't stay in that tent. 16 You have other clients who have other needs and 17 other things that are going on and other 18 responsibilities around an event. 19 Q. I'm not talking about the tent. I'm 20 talking about the structure. 21 A. Well, I talk to all my clients when 22 they first become clients about the dos and the 23 don'ts, what they have to do, you know, ongoing 24 education, making sure we know certain things. 25 You know, if I had my druthers, I</p>

Page 697

1 would love -- whether it's USA Track and Field
 2 or IAAF -- to have only these creams can be
 3 used. You bring these creams in -- I mean, you
 4 don't bring them in. You go into the tents,
 5 they give you the creams, and no creams come out
 6 of the tent, and you have no bags with you or
 7 anything. I would love to be that scrutinized,
 8 you know, just like an athlete has to do his
 9 whereabouts and his drug-testing protocol.
 10 But you don't know where these
 11 creams are coming from. They can buy them in
 12 the country, out of the country, and it's just
 13 very hard to stay on top of it. I mean, guys
 14 slipping -- I mean, I can walk in a tent, and
 15 once you have a credential to get on the
 16 facility, there's no one saying, "Are you a
 17 physical therapist, why are you in here?"
 18 So you could walk in there, if you
 19 have a ticket to the meet. So -- I mean,
 20 that's -- that's how dangerous it is.
 21 Q. Tell me what you tell your athletes
 22 about being careful.
 23 A. Well, Number 1, first and foremost,
 24 their name is all they will ever have. So
 25 that's the first thing.

Page 698

1 Secondly, is that I have never done
 2 drugs. I don't support people that do drugs.
 3 I'm not going to work with people that do drugs.
 4 Number 2.
 5 They have to be accountable 24-7 on
 6 what's going on. Yes, I'm here to help manage
 7 your career, but I'm also trying to help you
 8 learn about your career, your life, and take
 9 ownership of it. So, yeah, you might not know a
 10 lot, and I have to hold your hand initially, but
 11 at some point, I have to let go of your hand.
 12 And you have to understand, you
 13 can't turn to me and think that I'm going to
 14 have all the answers for you, so -- and we go
 15 step by step every week, whether it's from the
 16 time they're going to the airport to the time
 17 when I'm picking them up, what their fees and
 18 all of that are, where they go for massage, who
 19 is massaging them. Are they a massage
 20 therapist? Are they a chiropractor? Are they
 21 an acupuncturist? What is it that you need?
 22 Are they recognized? Are they certified? Are
 23 they just saying they do this? So making sure
 24 that they know, get comfortable with the
 25 consistency of the same person, so that

Page 699

1 different people aren't always messing with
 2 their bodies.
 3 Being as on top of everything as
 4 they can, yeah.
 5
 6 EXAMINATION
 7 BY MR. COLBERT:
 8 Q. I have a question. I believe in
 9 your testimony, Mr. Nehemiah, you said you had
 10 communicated with Mr. Gatlin's original
 11 attorney. Was that Cameron Myler?
 12 A. Yes. And Brian -- what is Brian's
 13 last name? Moss? Mass? Moss, Brian Moss,
 14 Cameron Myler. I didn't mention his name
 15 before, but he was the other part of it.
 16 Q. And in your communications, you
 17 relayed everything that you learned about Memo,
 18 the things you learned about Memo, and
 19 everything else that you learned in this
 20 investigation, you relayed to the counsel that
 21 you identified?
 22 A. Oh, yeah, I spoke to them daily,
 23 yeah.
 24 Q. I think you also said that it was
 25 your understanding that those attorneys were in

Page 700

1 communication with USADA?
 2 A. I know for a fact they were, because
 3 Cameron would tell me at various times, good or
 4 bad, her conversations with Travis or her
 5 frustrations, et cetera. So, to what extent
 6 they talked about it, I don't know, but she was
 7 in constant communication with Travis.
 8 Q. But you were given to understand by
 9 Cameron Myler that she was in constant
 10 communication with USADA through Mr. Tygart?
 11 A. Yes.
 12 MR. COLBERT: Thank you. I have
 13 nothing further.
 14 MR. BOCK: Could I ask a couple of
 15 follow-ups?
 16
 17 EXAMINATION
 18 BY MR. BOCK:
 19 Q. In terms of your -- the response to
 20 the questions that were just asked, your
 21 communication with Memo, it's my understanding,
 22 took place after Cameron Myler was out of the
 23 case; is that right?
 24 A. I couldn't tell you exactly the
 25 timing of that, no. I don't know.

Page 701	Page 703
<p>1 Well, I don't know when Cameron 2 Myler was technically ever out of the case. She 3 never officially recused herself. She just kind 4 of was MIA for periods of time, and then she 5 would resurface with an e-mail every now and 6 then, so as recently as when we first got here, 7 I mean ...</p> <p>8 Q. So the testimony that we heard 9 earlier, was that Jeff Novitzky called John 10 Collins angry about the communication with Memo?</p> <p>11 A. Yes. At a point in time, through 12 the frustration of the family of the way Brian 13 was handling things and the way Brian 14 communicated things, there was a decision by the 15 Gatlin family to terminate his participation.</p> <p>16 When I first got the call around 17 June 14 and 15 from Mrs. Gatlin that Justin 18 Gatlin tested positive, I told her, "Give me a 19 few minutes and let me see what I could do."</p> <p>20 And I remembered that a former 21 client of mine, Christie Gaines, who was 22 involved in the BALCO, had used Cameron Myler. 23 And so I looked up Cameron's name, and I called 24 her, and I asked her if she would be interested 25 in taking on the case.</p>	<p>1 either commenced or continued with Memo, John 2 was privy to those conversations.</p> <p>3 Q. (By Mr. Bock) Now, a couple of other 4 follow-ups.</p> <p>5 When you talked about this letter or 6 this e-mail that you sent on November 26th, 7 2006, had you received any new information, new 8 avenues since November 26th, 2006, that would 9 lead you to believe that Chris Whetstine was 10 acting alone in being responsible for the 11 positive test result of Mr. Gatlin?</p> <p>12 A. Acting alone? No, I haven't 13 received any new evidence.</p> <p>14 Q. So you have received no new 15 information since you sent this e-mail; is that 16 correct? About Mr. Whetstine's activities, that 17 would cause you concern.</p> <p>18 MR. COLLINS: I'm going to object.</p> <p>19 A. -- no new --</p> <p>20 MR. COLBERT: On what basis is your 21 objection?</p> <p>22 MR. COLLINS: It's overbroad. It's 23 asking -- it's --</p> <p>24 MR. BOCK: I'm just going to rely on 25 his answer to the first question. I will</p>
Page 702	Page 704
<p>1 So, that's how I got involved with 2 Cameron Myler.</p> <p>3 Q. The point is, my understanding is 4 that the prior testimony was that John Collins 5 called you very upset because Jeff Novitzky had 6 bitten his head off because there had been no 7 communication about the contact with Memo, 8 this --</p> <p>9 A. He was mad that we didn't tell him 10 that we were talking to Memo.</p> <p>11 Q. Yeah.</p> <p>12 A. And as I sat here today --</p> <p>13 Q. Had you communicated that to 14 Mr. Collins, the communications with Memo?</p> <p>15 MR. COLLINS: Can I ask a question 16 here?</p> <p>17 MR. COLBERT: Why don't you -- let 18 him answer the question. Let the witness answer 19 the question as it's presently posed on the 20 floor, unless you have an objection to the 21 question.</p> <p>22 MR. COLLINS: No, that's fine.</p> <p>23 MR. COLBERT: Go ahead.</p> <p>24 A. When John Collins came on as 25 counsel, the conversation -- once conversations</p>	<p>1 withdraw the question.</p> <p>2 Q. (By Mr. Bock) The last question: 3 What evidence do you have that Mr. Gatlin's 4 positive test result was caused by the cream?</p> <p>5 A. What evidence do I have?</p> <p>6 MR. COLLINS: I object. He doesn't 7 have the evidence. The evidence is what's 8 presented to you.</p> <p>9 MR. COLBERT: He has asked a very 10 simple question. It can be answered very 11 simply. Sorry.</p> <p>12 A. I don't -- the only semblance of 13 evidence is from experts including Dr. Black 14 saying that the positive results could be 15 consistent from that of a cream being used. 16 Didn't say that it did, but it didn't rule out 17 that it wasn't. So I don't know if that's 18 evidence, but it doesn't say that it wasn't 19 cream, but it could be a cream.</p> <p>20 So it's an understanding in my mind. 21 I don't call it evidence, but there's a 22 possibility that it was a cream, and it would 23 have been consistent -- his test scores would be 24 consistent with a cream being used.</p> <p>25 MR. BOCK: Thank you very much.</p>

Page 705	Page 707
<p>1 MR. COLBERT: Mr. Nehemiah, thank you 2 very much. I'm sorry that we kept you past your 3 plane. But you are excused now, so maybe you 4 can get the second one. 5 MR. NEHEMIAH: No problem. Thank 6 you. 7 MR. COLLINS: Take a few-minute 8 break. 9 MR. COLBERT: Take a five-minute 10 break, and then you have Dr. Black. Why don't 11 you call -- take the time. 12 (Brief recess taken from 3:05 to 13 3:30 p.m.) 14 MR. COLBERT: We're resuming on 15 redirect testimony of Justin Gatlin. Pardon? 16 MR. GATLIN: Part 3. 17 MR. COLBERT: Part 3. It's the 18 redirect. 19 Sorry, Mr. Gatlin. I believe you 20 said, Mr. Collins, you had a few questions you 21 wanted to ask on redirect? 22 MR. COLLINS: Yeah, very few. 23 Since he's been called out of order 24 a few times, one of them is outside the scope of 25 my direct.</p>	<p>1 Q. Do you have any coach right now? 2 A. I do not have a coach. 3 Q. Do you have -- this is a technical 4 question, housekeeping. I don't think the -- 5 A. Can I follow that up real quick? 6 Q. Certainly. 7 A. I mean, ironically, in the process, 8 I have had athletes come to me to ask me to 9 coach them and train them as well, so, I don't 10 know if that shows that I was -- 11 Q. Okay. 12 MR. COLLINS: We've talked a number 13 of times, but I don't know that we have ever 14 moved in the -- you were going to get the color 15 photos. 16 MR. BOCK: I got the colored photos. 17 (Photos passed out.) 18 MR. COLLINS: If you could just take 19 a quick look at those -- do you want me to do 20 all the setting up of the foundation, or are you 21 okay with letting them in? 22 MR. COLBERT: Do you object to the 23 admission of these as a collective exhibit? 24 MR. TYGART: No, we don't. 25 MR. COLBERT: Should we mark these as</p>
Page 706	Page 708
<p>1 MR. BOCK: We don't have any 2 objection. 3 MR. COLLINS: You do or don't? 4 MR. BOCK: We do not. 5 MR. COLLINS: Okay. 6 MR. BOCK: Right? 7 MR. TYGART: Wait until we hear the 8 question. 9 MR. COLLINS: You can tell none of us 10 have had any sleep. 11 12 WHEREUPON, 13 JUSTIN GATLIN, 14 the Respondent herein, having been reminded of 15 his oath to state the whole truth, testified as 16 follows: 17 EXAMINATION 18 BY MR. COLLINS: 19 Q. Mr. Gatlin, you understand you are 20 still under oath? We did that already. 21 A. Yes. 22 Q. There was some questions asked to 23 you on cross-examination about not being with 24 Trevor Graham as a coach currently? 25 A. Yes.</p>	<p>1 Exhibit 14? Gatlin Exhibit Number 14, I think 2 is the next number. 3 MR. COLLINS: Okay. 4 MR. COLBERT: Okay. 5 MR. COLLINS: Did we ever -- I guess 6 we're doing the housekeeping. We showed this. 7 We talked about it. There was no objection to 8 it coming in, but I don't think we numbered it. 9 MR. COLBERT: You are talking now 10 about the November 26th, 2006 -- 11 MR. COLLINS: E-mails, yeah. 12 MR. COLBERT: -- e-mails? I believe 13 there was no objection to the question. Are you 14 moving the admission? 15 MR. COLLINS: Yes. 16 MR. COLBERT: Without objection 17 then -- 18 MR. BOCK: No objection. 19 MR. COLBERT: -- 15? 20 MR. BOCK: I just wanted to make 21 clear that Exhibit 15 is the e-mail that I was 22 examining Mr. Nehemiah on during his 23 cross-examination. 24 MR. COLBERT: The record will reflect 25 that.</p>

Page 709	Page 711
<p>1 MR. COLLINS: Absolutely. 2 MR. TYGART: While we're on 3 housekeeping, should I -- I have got the updated 4 urine charts. 5 MR. COLLINS: Yeah, I'd love that. 6 MR. TYGART: Okay. Can we do that? 7 MR. CAMPBELL: What's this exhibit? 8 Number 15? 9 MR. COLBERT: This is the -- 15 is 10 the e-mail. 11 Okay. And so this is -- you are 12 passing out, now, sheets that are updated 13 steroid profile. And this is what was attached 14 to the second stipulation and is a replacement 15 for that? 16 MR. COLLINS: Why don't we move it in 17 as a new one, because if we were talking about 18 in -- the other ones had Bates stamps numbers 19 and stuff like that -- 20 MR. COLBERT: Well, I believe that 21 was -- I believe you originally attached the -- 22 the second stipulation hasn't been moved as an 23 exhibit, has it, and you've got 29 -- 24 MR. TYGART: I would just move that 25 this be moved as Exhibit 16, just to make it</p>	<p>1 Counsel, about the Cary Orthopedic and Sports 2 Medicine statement of July 12th, 2006, showing 3 some codes and billing dates and payment dates, 4 and we passed out earlier. Do you have any 5 objection to this coming in as Exhibit 16? 6 MR. CAMPBELL: No. It would be 7 Exhibit 17.. 8 MR. CHERIS: Mr. Tygart, do you 9 realize that on your new steroid profile they 10 still have the collection date as 4-28, not 11 4-26? 12 MR. TYGART: You know, I literally 13 pulled it out of the overnight packet that I 14 got, so I haven't had a chance to analyze it. 15 MR. COLLINS: At least we're 16 consistent. 17 MR. TYGART: And, I think -- well, I 18 think if -- I mean, we got that from the 19 Montreal date, because it's the IAAF collection 20 date. 21 MR. COLBERT: Yeah, I think it's 22 clear on the record what it is. 23 MR. TYGART: Is everybody okay with 24 that? 25 MR. COLBERT: The record now reflects</p>
Page 710	Page 712
<p>1 real clear. We will keep the stipulation as it 2 is. 3 MR. COLBERT: It's your exhibit, 4 though, right? So, it would be your Exhibit 30, 5 I believe. 6 MR. TYGART: That's fine. 7 MR. CAMPBELL: 30? 8 MR. COLBERT: I thought they had 28. 9 They had 28 -- I think they had -- 10 29 was -- was 29 the full packet that was 11 submitted, and this is the one individual sheet, 12 so make this 30. 13 MR. CAMPBELL: So make it, it's a new 14 one, so USADA 30. 15 MR. COLBERT: Because it's a revised 16 one. 17 Okay. 18 MR. COLLINS: And then I was going 19 to -- 20 MR. COLBERT: Yes or no on this one? 21 MR. COLLINS: Yeah, I was going to 22 have -- do you want me to have Justin establish 23 that or his mother, or is there any objection to 24 that coming in? 25 MR. COLBERT: We're talking now,</p>	<p>1 it as the same error. 2 MR. TYGART: That's fine. 3 MR. CHERIS: That's all I want to 4 know. 5 MR. TYGART: Thank you, though. 6 MR. COLBERT: I think that's all the 7 housekeeping. 8 MR. COLLINS: Well, this just came in 9 as 16? 10 MR. COLBERT: The Carey bill is in as 11 16, Exhibit 16, Gatlin Exhibit 16. Here. 12 (Multiple discussions off the record 13 concerning exhibits.) 14 MR. COLLINS: Sorry. 15 MR. COLBERT: Okay. Now, that's all 16 the housekeeping, then? 17 MR. COLLINS: I believe it is. 18 MR. TYGART: Before you move on, are 19 you going to attempt, while we're all here, to 20 introduce this? 21 MR. COLBERT: Is that to be used with 22 Dr. Black? 23 MR. COLLINS: Yes. 24 MR. COLBERT: I suggest that we wait 25 for Dr. Black.</p>

<p style="text-align: right;">Page 713</p> <p>1 MR. TYGART: Okay.</p> <p>2 MR. BOCK: Well, the only thing</p> <p>3 was -- and we can discuss this later on the</p> <p>4 record -- but -- after his testimony, but we</p> <p>5 ought to cover what can and can't be --</p> <p>6 MR. COLBERT: Let's do it after we</p> <p>7 finish with Mr. Gatlin's testimony, rather than</p> <p>8 taking his time.</p> <p>9 Q. (By Mr. Collins) You have in front</p> <p>10 of you, those -- while we've had this little</p> <p>11 circus going on, you had the opportunity to</p> <p>12 review those in front of you?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Do you recognize those?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And what are those?</p> <p>17 A. These are our text messages sent</p> <p>18 from me and Chris Whetstine, conversations of</p> <p>19 the text message.</p> <p>20 Q. When you sent those -- I think, we</p> <p>21 discussed that yesterday in your direct</p> <p>22 testimony, but now that we have the copies in</p> <p>23 front of you, are those the ones that you</p> <p>24 testified about yesterday?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 715</p> <p>1 years in the military, and I have only seen my</p> <p>2 dad cry, like, twice, and that was one of the</p> <p>3 instances he cried.</p> <p>4 Q. Did you call -- you make a call to</p> <p>5 Trevor Graham at or about that time?</p> <p>6 A. Afterwards.</p> <p>7 Q. What did you tell him?</p> <p>8 A. Basically, that I was just -- I</p> <p>9 really didn't complain. I was just showing him</p> <p>10 on the Internet that, it was more of a</p> <p>11 conversation going to, like, why is people</p> <p>12 messing with us? Why are they messing with me?</p> <p>13 That's what the conversation was about.</p> <p>14 Q. Did you mention anything about some</p> <p>15 actions your dad had taken after seeing it?</p> <p>16 A. To Trevor Graham?</p> <p>17 Q. Yes.</p> <p>18 A. Yeah, I did.</p> <p>19 Q. What did you tell Trevor?</p> <p>20 A. That my dad was going to shoot you,</p> <p>21 if it was true.</p> <p>22 Q. Okay. Ask one last question: Did</p> <p>23 you ever conspire with Trevor Graham to try to</p> <p>24 bribe Chris Whetstine?</p> <p>25 A. No, sir.</p>
<p style="text-align: right;">Page 714</p> <p>1 Q. And when you sent those, did you</p> <p>2 have any intent to threaten or coerce</p> <p>3 Mr. Whetstine?</p> <p>4 A. Not at all. I think that some of</p> <p>5 the documents, it shows that I was showing</p> <p>6 compassion to him and his family.</p> <p>7 Q. Did you ever offer a bribe to</p> <p>8 Mr. Whetstine?</p> <p>9 A. No, I did not.</p> <p>10 Q. Did you ever authorize anybody to</p> <p>11 offer a bribe?</p> <p>12 A. No, sir.</p> <p>13 Q. Now, yesterday there was some</p> <p>14 testimony about an April Fool's joke, and I</p> <p>15 believe it was 2004. Do you recall that</p> <p>16 incident?</p> <p>17 A. I do.</p> <p>18 Q. Where were you? Or do you recall</p> <p>19 where you were when the -- you saw that</p> <p>20 document?</p> <p>21 A. I think I was at home with my</p> <p>22 parents when I got it.</p> <p>23 Q. Do you recall your dad got rather</p> <p>24 emotional?</p> <p>25 A. Well, as I say, my dad has had 26</p>	<p style="text-align: right;">Page 716</p> <p>1 MR. COLLINS: I have nothing further.</p> <p>2 MR. BOCK: We don't have any</p> <p>3 questions.</p> <p>4 MR. COLBERT: Mr. Gatlin, thank you</p> <p>5 very much. You are excused as a witness.</p> <p>6 MR. GATLIN: Thank you very much.</p> <p>7 MR. COLBERT: I know this has been a</p> <p>8 very trying ordeal for you.</p> <p>9 MR. GATLIN: It has. And I</p> <p>10 appreciate everyone's time and availability to</p> <p>11 come out, and I know you-all have other things</p> <p>12 to do, and I appreciate you just hearing my part</p> <p>13 and my situation, and understanding and being</p> <p>14 fair about it. And I think that everyone here</p> <p>15 has been fair, and, really assess the problem</p> <p>16 and the situation I have gone through. And I</p> <p>17 have -- just wish that everything could be</p> <p>18 resolved the way that we want it to be resolved,</p> <p>19 and I just want to represent my country, like I</p> <p>20 have been representing my country.</p> <p>21 I really don't have anything to say</p> <p>22 about that. I just think I was born to run, and</p> <p>23 that's what I want to do, and I didn't really</p> <p>24 want to have no part in doing anything that was</p> <p>25 to harm my country or deface my country, and I</p>

Page 717	<p>1 apologize for that. And I wish that we could</p> <p>2 have met under circumstances that we could have</p> <p>3 been on the same side of the table, and maybe</p> <p>4 one day in the future, we can.</p> <p>5 I appreciate that. Thank you.</p> <p>6 MR. COLBERT: Thank you.</p> <p>7 MR. BOCK: Thank you, Justin.</p> <p>8 MR. COLBERT: All right. That</p> <p>9 leaves, as I understand it, at least, for what's</p> <p>10 been scheduled, we have for Mr. Gatlin's case,</p> <p>11 we have remaining Dr. David Black. He is</p> <p>12 scheduled to testify tomorrow at noon West Coast</p> <p>13 time, 3:00 East Coast time, and all the times in</p> <p>14 between will fill themselves in. We will do it</p> <p>15 by phone. Can we ask USADA to set up a bridge,</p> <p>16 or would you like us to do it?</p> <p>17 MR. TYGART: We'll set it up.</p> <p>18 MR. COLBERT: And if you send an</p> <p>19 e-mail to all counsel as to the call-in, that</p> <p>20 would be great.</p> <p>21 And then for USADA, if I understand</p> <p>22 correctly, based on our original discussion, you</p> <p>23 have Dr. Cedric Shackleton as a potential</p> <p>24 witness, as a witness -- definite witness; and</p> <p>25 Dr. Bowers, as a possible witness. And those</p>	Page 719	<p>1 Mr. Gatlin, that in terms of his case in chief,</p> <p>2 the record is closed.</p> <p>3 MR. COLBERT: As I understand it, and</p> <p>4 based on our original discussions on Monday</p> <p>5 morning for housekeeping, the -- Mr. Gatlin has</p> <p>6 one more witness; that's Dr. Black as an expert.</p> <p>7 However, he reserves his right, you</p> <p>8 may recall, on Monday, to call witnesses in</p> <p>9 rebuttal, depending on what your witnesses may</p> <p>10 say, but he's agreed that that's what he will</p> <p>11 limit himself too, in the event that he needs to</p> <p>12 call somebody, and he won't know that until</p> <p>13 after your witness has testified.</p> <p>14 MR. BOCK: Right. Right. So,</p> <p>15 okay --</p> <p>16 MR. COLBERT: We're not going to</p> <p>17 generally reopen the case for submission of</p> <p>18 evidence or anything else.</p> <p>19 MR. BOCK: Okay. Thanks.</p> <p>20 MR. COLLINS: That is my</p> <p>21 understanding as well.</p> <p>22 MR. BOCK: And what are we going to</p> <p>23 do in terms of the argument?</p> <p>24 MR. COLBERT: Well, we can do the</p> <p>25 argument at the close of all the testimony</p>
Page 718	<p>1 are the only currently scheduled witnesses that</p> <p>2 you have.</p> <p>3 MR. TYGART: And just one caveat,</p> <p>4 depending on the scheduling since we haven't</p> <p>5 talked to them, it may be Hans Geyer or</p> <p>6 Dr. Shackleton now, but only one of them and</p> <p>7 only in response to anything that Dr. Black may</p> <p>8 raise. And then possibly Dr. Richard</p> <p>9 Hildebrandt on something that he was not listed,</p> <p>10 but it was raised today, so, I just -- with</p> <p>11 respect to the call that Renaldo Nehemiah</p> <p>12 allegedly made.</p> <p>13 MR. COLBERT: All right. You will</p> <p>14 let us know about that?</p> <p>15 MR. TYGART: We will.</p> <p>16 MR. CAMPBELL: Could you pass on our</p> <p>17 condolences to Dr. Bowers, please?</p> <p>18 MR. TYGART: We will. Thank you very</p> <p>19 much.</p> <p>20 MR. COLBERT: Is there any other</p> <p>21 further bookkeeping matters? Housekeeping?</p> <p>22 MR. BOCK: Is it fair to say, though,</p> <p>23 that there's an agreement that except for those</p> <p>24 witnesses that have just been identified -- or</p> <p>25 actually, the one witness that was identified by</p>	Page 720	<p>1 tomorrow, if it closes.</p> <p>2 Obviously, we have the issue of</p> <p>3 possible rebuttal. We would hope that that</p> <p>4 would be done immediately following, if</p> <p>5 possible, we can do the close -- and I</p> <p>6 understand, you would rather do oral closing,</p> <p>7 rather than written documents; however, if you</p> <p>8 have demonstratives that you wish to use for</p> <p>9 closing, then we would have to address that.</p> <p>10 MR. BOCK: We could just e-mail them</p> <p>11 to you.</p> <p>12 MR. COLBERT: You could just e-mail</p> <p>13 them to us, if you could just do --</p> <p>14 MR. CAMPBELL: Can you do PowerPoint?</p> <p>15 MR. BOCK: I don't know. I haven't</p> <p>16 created any at this point.</p> <p>17 MR. COLBERT: Then if that's the</p> <p>18 case, if you have demonstratives or if you have</p> <p>19 demonstratives or particular slides you wish us</p> <p>20 to look at to refer to the specific -- we've got</p> <p>21 all the exhibits here, so we're only really</p> <p>22 talking about, it's not any new exhibits, but</p> <p>23 any demonstratives, where you may summarize what</p> <p>24 you believe your exhibits or the testimony of</p> <p>25 the witness has shown, then I'd suggest that you</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

181 (Pages 721 to 724)

Page 721	Page 723
<p>1 e-mail it to the other party and to each panel 2 member, what those slides are, and you can refer 3 to them, as you go through oral argument, we can 4 review them on our computers, if that sounds 5 acceptable to you? 6 MR. BOCK: Great, thank you. 7 MR. COLBERT: Mr. Collins? Yes? 8 MR. COLLINS: I believe we've 9 already covered it, but my client has asked me, 10 so I thought I would confirm, the stipulation 11 that we entered at the first thing, yesterday, 12 the one with Catlin, Michelle Collins -- 13 MR. TYGART: The second stipulation, 14 right? 15 MR. COLLINS: That's in, right? 16 MR. COLBERT: That's in. 17 MR. TYGART: Yeah, that's been 18 provided to the panel. 19 MR. COLLINS: That's been provided. 20 I just -- 21 MR. COLBERT: I don't think it's been 22 given an exhibit number. It's just been 23 submitted as stipulation of the parties, much 24 as -- 25 MR. COLLINS: If we are going to</p>	<p>1 (Proceedings commenced at 1:00 p.m. 2 on Wednesday, August 1, 2007; all the same 3 parties were present telephonically. Also 4 present were Justin Gatlin, Mr. and Ms. Gatlin 5 and Johncie Wingard. The proceedings were 6 reported by Stephanie Ostdahl.) 7 WHEREUPON, 8 DAVID L. BLACK, Ph.D., 9 the witness herein, being first duly sworn 10 telephonically to testify to the truth in the 11 above cause, was examined and testified on his 12 oath as follows: 13 EXAMINATION 14 BY MR. COLLINS: 15 Q. Good afternoon, Dr. Black. This is 16 John Collins. 17 A. Good afternoon. 18 Q. Could you please -- I believe -- 19 actually, I believe you've already stated your 20 name and spelled it for the record; is that 21 correct? 22 A. Correct. 23 Q. Could you please give us some 24 background information about yourself. You 25 indicated earlier you're a Ph.D. What is that</p>
<p>1 arm-wrestle over it, whether we call it "son of 2 stipulation" or stipulation -- 3 MR. COLBERT: We will be happy to 4 give it a number if you'd like. 5 MR. COLLINS: He said Stipulation 2. 6 I'm okay with that. 7 MR. COLBERT: I'm happy to give it 8 an exhibit number, but I think it's in the 9 record now as a stipulation between the parties, 10 so we don't need to give it an exhibit number. 11 MR. BOCK: That's fine. 12 MR. COLBERT: Mr. Campbell? 13 MR. CAMPBELL: I'm good. 14 MR. COLBERT: Mr. Cheris? 15 Okay. We'll stand adjourned until 16 noon tomorrow. 17 MR. COLLINS: Depending on where you 18 are. 19 MR. TYGART: And that was noon 20 Pacific Coast. 21 MR. COLBERT: Thank you. 22 23 (Recessed at 3:40 p.m.) 24 25</p>	<p>1 Ph.D. in? 2 A. My doctorate degree is in forensic 3 toxicology. My field of practice is in legal 4 medicine. And that was earned at the University 5 of Maryland school of medicine graduate program. 6 Q. Okay. Are you currently employed? 7 A. I am currently employed with Aegis 8 Sciences Corporation. 9 Q. What are your duties at Aegis? 10 A. Well, I am president of the company, 11 and my responsibility extends to ensuring that 12 we're compliant with all regulations and laws 13 that cover our practice of business or our 14 practice of forensic sciences in that regard, 15 though I have a staff of management which I 16 direct. 17 I have directors -- four directors 18 that I direct, and then those directors have a 19 total of about 70 other individuals that make up 20 the Aegis team of scientists and employees. 21 Q. Could you briefly explain what Aegis 22 does. 23 A. Well, Aegis Sciences is a forensic 24 toxicology laboratory. We only provide forensic 25 services. We provide services to law</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

182 (Pages 725 to 728)

Page 725	Page 727
<p>1 enforcement for driving under the influence of 2 drugs, for crime scene evidence analysis. We 3 also provide services for postmortem death 4 investigation. 5 We are also one of 44 federally 6 certified laboratories in the United States 7 under the United States Department of Health and 8 Human Services which provides workplace drug 9 testing services to both private business and 10 government agencies. 11 We also provide services to prison 12 systems and parole and probation. Testing 13 prisoners to ensure there's no use of drug, as 14 well as parolees and probationers to make sure 15 they're compliant with conditions of parole, 16 which prohibit drug use. 17 We also provide a significant 18 service of doping analysis. We provide services 19 to many universities. We provide services to 20 NASCAR. We provide services on behalf of the 21 Major League Baseball Players Association. We 22 also provide services to World Wrestling 23 Entertainment, which is not a sport, but an 24 entertainment industry. And we also provide 25 other specialty testing for other forensic</p>	<p>1 I will be. 2 MR. COLLINS: I don't know that it's 3 technically required to move him to be an 4 expert. 5 MR. TYGART: That's fine. I think 6 you need to get his resume to the panel. 7 MR. COLLINS: Okay. I will -- if 8 it's okay with the panel, I will distribute that 9 to them. There's no objection to him being an 10 expert, though? 11 MR. TYGART: I mean, you can ask him 12 questions. I'm going to -- you know, until I 13 hear what he's going to testify about, I 14 can't -- I mean, for all purposes, I can't agree 15 to that at this point. 16 MR. COLBERT: This is Edward 17 Colbert. I guess the question I would ask is, 18 Do you at present have a general objection to 19 him being proffered generally as an expert on 20 drugs? 21 MR. TYGART: No. I have no problem 22 with that. I don't obviously waive my ability 23 to ask particular questions into those areas. 24 MR. COLBERT: But you don't want to 25 conduct voir dire now?</p>
Page 726	Page 728
<p>1 applications where the results may be entered 2 into civil or criminal litigation. 3 Q. Okay. I assume when you discussed 4 the doping analysis for universities, Major 5 League Baseball and NASCAR, that that's your 6 current list of clients; is that correct? 7 A. That's correct. 8 Q. Have you done doping analysis for 9 any other sports? 10 A. Well, I did originally set up the 11 National Football League testing program back in 12 the early '80s when Pete Rozell was 13 commissioner, and have provided services to a 14 number of application settings, both testing 15 animals, as well as humans in various 16 competitive sports. 17 So there have been other 18 applications in the science to those settings 19 where there's a need to hold individuals 20 accountable for whether or not they are using 21 drugs for doping. 22 MR. CAMPBELL: Just a -- I'm sorry. 23 Travis, is it you or Bill that's going to be 24 responsible for any cross here? 25 MR. TYGART: Can you hear me? Yeah,</p>	<p>1 MR. TYGART: No, I don't. 2 MR. COLBERT: Mr. Collins? 3 MR. COLLINS: Actually, I would have 4 one more background question. 5 Q. (By Mr. Collins) Have you ever 6 testified as an expert in a sports anti-doping 7 case? 8 A. Yes, many times. 9 Q. Could you give some of them, if you 10 remember. 11 A. Well, gosh. Probably the case that 12 received the most attention was the Butch 13 Reynolds case which I testified regarding -- 14 which was a positive test out of a French 15 laboratory, a Paris laboratory. But I've also 16 testified on behalf of Sandra Farmer-Patrick, 17 George Quigley, Dave Johnson, Tara Marshall, Gia 18 Johnson. 19 In addition to that, I've testified 20 in many NCAA hearings or in university 21 administrative hearings where drug testing 22 results from Aegis have been used -- well, in 23 the instance of university hearings, where Aegis 24 test results have resulted in suspension from 25 play or loss of scholarship for student athletes</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

183 (Pages 729 to 732)

Page 729	Page 731
<p>1 at the university level.</p> <p>2 And, of course, beyond that, I've</p> <p>3 testified many times in criminal proceedings and</p> <p>4 civil proceedings where individuals have been</p> <p>5 charged with murder or vehicular homicide or</p> <p>6 parole or probation violations where people have</p> <p>7 gone to jail. I testify a great deal in various</p> <p>8 matters.</p> <p>9 Q. When you testify, is it usually for</p> <p>10 the defendant or the plaintiff?</p> <p>11 A. Oh, probably 99.9 percent plus of</p> <p>12 the work that -- or the testimony that I've</p> <p>13 provided historically has been what I guess you</p> <p>14 would call the prosecution. It's been taking</p> <p>15 evidence -- the facts gathered by testing that</p> <p>16 are used as a basis for some sort of drug use</p> <p>17 that causes an individual in criminal or civil</p> <p>18 proceedings to forfeit rights, privileges,</p> <p>19 freedom, money.</p> <p>20 Q. Are you aware of the case today, the</p> <p>21 Justin Gatlin/USADA matter?</p> <p>22 A. I am.</p> <p>23 Q. And you've been retained by</p> <p>24 Mr. Gatlin in this case?</p> <p>25 A. I have, yes.</p>	<p>1 Gatlin in March of 2006 for tri-insulin. And I</p> <p>2 did look at that prescription history based upon</p> <p>3 your request.</p> <p>4 Q. Speaking of those substances</p> <p>5 provided to Mr. Gatlin in 2006, what is</p> <p>6 triamcinolone?</p> <p>7 A. It's a compound that is used for</p> <p>8 various medical needs. But it's not a compound</p> <p>9 that we typically include in our testing</p> <p>10 process.</p> <p>11 Q. Why is that?</p> <p>12 A. None of our programs have requested</p> <p>13 that the drug be included in the programs as a</p> <p>14 banned agent.</p> <p>15 Q. Is it fair to characterize that</p> <p>16 substance as an antiinflammatory?</p> <p>17 A. It is.</p> <p>18 Q. With your understanding of</p> <p>19 triamcinolone -- I'm sure I'm butchering the</p> <p>20 name here.</p> <p>21 A. Triamcinolone.</p> <p>22 Q. Triamcinolone. Is that a substance</p> <p>23 which, in a test, would provide a positive</p> <p>24 result for testosterone or its precursors?</p> <p>25 A. No, it would not move in the path of</p>
Page 730	Page 732
<p>1 Q. When, approximately, did your</p> <p>2 involvement begin?</p> <p>3 A. Well, my original involvement began</p> <p>4 in mid-June of 2006 when I was contacted by an</p> <p>5 attorney, Cameron Myler, to travel to UCLA to</p> <p>6 witness the B-bottle test. And subsequent to</p> <p>7 that, a service was also provided in analyzing</p> <p>8 supplements that were sent to Aegis for</p> <p>9 analysis.</p> <p>10 We had two sets of supplements sent</p> <p>11 and submitted for analysis. And then more</p> <p>12 recently, about the 1st of May of this year, I</p> <p>13 was asked once again to be involved in this</p> <p>14 case.</p> <p>15 Q. Have you reviewed documents for</p> <p>16 today?</p> <p>17 A. I have. I've reviewed a -- well,</p> <p>18 I've gone back and re-reviewed the original data</p> <p>19 packets on the A sampling and B sampling</p> <p>20 testing. I've also reviewed the results of the</p> <p>21 supplement testing. I've also looked at a</p> <p>22 multi-page document that I think is the</p> <p>23 principal point of interest; a longitudinal</p> <p>24 chart of T/E values. And then also I did look</p> <p>25 at a prescription that was provided to Justin</p>	<p>1 testosterone in the body. And I would not hold</p> <p>2 the opinion that it would hold a positive test.</p> <p>3 Q. Have you heard of a substance</p> <p>4 Celestone, which is a glucocorticoid?</p> <p>5 A. No, I'm not familiar with that</p> <p>6 compound.</p> <p>7 Q. Now, you indicated that you received</p> <p>8 a number of supplements from -- I believe it was</p> <p>9 Cameron Myler that sent them to you.</p> <p>10 A. Yes.</p> <p>11 Q. Is that correct? And what tests did</p> <p>12 you perform on those supplements?</p> <p>13 A. They were sent in two groups. There</p> <p>14 was an original group of eleven supplement</p> <p>15 products that were sent in June of 2006, and</p> <p>16 then a second group of six sent in late October.</p> <p>17 But we have a supplement profile that we provide</p> <p>18 a service for that looks for steroid or</p> <p>19 precursor compounds.</p> <p>20 We have several of these. And this</p> <p>21 particular analysis included testing for 19</p> <p>22 Norandrostenediol, 19 Norandrostenedione, 19</p> <p>23 Nortestosterone, 19 Norandrosterone, 19</p> <p>24 Noretiocholanolone, 19 Norepiandrosterone, 4</p> <p>25 hydroxytestosterone, 1 Androstenediol.</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

184 (Pages 733 to 736)

Page 733	Page 735
<p>1 Androstenediol, Androstenedione, DHEA, and 2 testosterone. So those were the drugs included 3 in the analysis. 4 Q. And where did you get the list of 5 those drugs to test? 6 A. This is a profile that we offer as a 7 service when we're testing supplement products 8 for precursor chemicals or chemicals that may be 9 banned by a sports organization when, in fact, 10 there may be some suspicions that a supplement 11 contains such drugs. 12 Q. And was one of the supplements you 13 received something called Essential Alpha Lean? 14 A. Oh, gosh, I'd have to go back 15 through the list. 16 Q. I believe -- to help you -- 17 A. Here, I have found it. It's 18 actually the first -- one of the first sets of 19 supplements tested. Yes, one of them was 20 Essential Alpha Lean Omega Blend. 21 Q. And what did that substance -- can 22 you describe that substance? 23 A. Well, we received 76 clear solid 24 capsules containing a yellow liquid. The 25 capsules were 23 by 9 millimeters in dimension.</p>	<p>1 MR. TYGART: Can I interject -- it's 2 not an objection. And this is Travis from 3 USADA. Would that be okay with the panel? 4 MR. COLBERT: Yes. 5 MR. TYGART: John, it sounds like 6 he's reviewing a document when he's answering. 7 It sounds like you may be reviewing a document 8 in questioning. Are these the documents -- if 9 that's, in fact, correct, are those the 10 documents that you provided to us yesterday? 11 MR. COLLINS: Yes. The ones I'm 12 looking at are the documents I gave to you 13 yesterday. 14 MR. TYGART: And I'd like to ask the 15 witness one question, or maybe a couple 16 questions on the documents, if I can. 17 MR. COLBERT: This is Edward 18 Colbert, Mr. Tygart. You want to cross the 19 witness now, or are you just getting 20 clarification on the question? 21 MR. TYGART: I just want to make 22 sure that he's testifying from the same document 23 that we're testifying from -- that we all have 24 in front of us, and not a different document. 25 And I'm specifically concerned about that,</p>
Page 734	Page 736
<p>1 The average weight of each capsule was 1.46 2 grams. They were received at our organization 3 in a clear plastic bottle with a white cap, and 4 it was identified as essential Alpha Lean Omega 5 Blend, Lot No. 50512048. 6 Q. And you tested that supplement with 7 the battery of tests for those substances that 8 were testosterone and testosterone precursors 9 that you previously mentioned? 10 A. Yes. 11 Q. What were the results of that test? 12 A. It was negative. We did not detect 13 any of those compounds. 14 Q. And is there a screen cutoff? 15 A. Yes. We tested to 1.0 parts per 16 million on the product. 17 Q. And is there a confirmed 18 confirmation cutoff? 19 A. Yes. 2 parts per million, by 20 weight. 21 Q. I'd like to draw your attention to 22 another supplement. Did you receive one that 23 was referred to as L-Carnitine? 24 A. Yes. L-Carnitine, we did receive 25 such a product.</p>	<p>1 because I noticed on one of -- well, actually on 2 all of these, with maybe the exception of one, 3 this doesn't look like the final certified copy. 4 And it's not -- if you look at the bottom of the 5 one that we just went -- that he just went 6 through, the essential Alpha Lean Omega Blend, 7 there's no certification signature. 8 I think it even says "draft." Maybe 9 it doesn't say draft report, but it looks like 10 not the final report. 11 MR. COLBERT: Well, let me just ask 12 this of the witness. Dr. Black, do you have 13 documents there other than the ones which you've 14 provided to Mr. Collins? 15 THE WITNESS: No, I do not. 16 MR. COLBERT: Okay. I would 17 suggest, then, Mr. Tygart, that you save for 18 cross-examination anything that you find amiss, 19 or ask him questions on cross about certifying 20 or if there's any difference about what you have 21 and what he testifies to at the hearing. That 22 would be certainly fair grounds for cross. 23 MR. TYGART: Okay. That's fine. 24 MR. COLBERT: Thank you. 25 MR. COLLINS: This is sort of a</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

185 (Pages 737 to 740)

Page 737	<p>1 housekeeping matter. 2 MR. COLBERT: Who's that? John? 3 MR. COLLINS: This is John Collins. 4 It was a little confusing at the end of the day 5 yesterday, and I don't remember if, in fact, 6 we've given these documents to the panel. 7 MR. CAMPBELL: This is Chris 8 Campbell. I was just thinking I don't have 9 those documents. 10 MR. COLBERT: I do not either. 11 MR. CHERIS: I do not either. 12 MR. COLLINS: Okay. Then I didn't. 13 I could -- is everybody on e-mail? 14 ALL (simultaneously): Yes. 15 MR. COLLINS: Can we take a two- 16 second recess. I will step out and have my 17 assistant make a .pdf of these two documents. 18 MR. COLBERT: Did you have them 19 already on a .pdf at the hearing yesterday? 20 MR. COLLINS: I guess I did. 21 MR. COLBERT: Just send it to us. 22 (A brief recess was taken.) 23 MR. CAMPBELL: This is Chris 24 Campbell. Have we identified these as exhibits 25 or given them an exhibit number?</p>	Page 739	<p>1 ID, Laboratory ID at the top, for him to 2 identify before you ask him questions about each 3 one of these documents, if that's the document 4 he's referring to, or we're going to have to 5 number each one of these separately. 6 MR. COLLINS: Okay. I'll do that. 7 I'm happy to do that. 8 MR. TYGART: Okay. 9 MR. COLLINS: In that case, we 10 should go back to the first page one, which was 11 Donor -- I've been handed a confirmation sheet. 12 Mr. Cheris should shortly have his fax of the 13 other one. 14 Q. (By Mr. Collins) Back to the other. 15 Could you -- the document we just discussed, 16 Mr. Black, could you give the donor ID 17 information at the top? 18 A. Yeah. In the upper right-hand 19 corner, the document is identified Donor ID: 20 Essential Alpha Lean. And the Laboratory ID is 21 4334714. 22 MR. BOCK: And I apologize. This is 23 Bill Bock. This is Exhibit 17 we're talking 24 about? 25 MR. COLLINS: This would be</p>
Page 738	<p>1 MR. COLLINS: Not yet. 2 MR. COLBERT: Not yet. 3 MR. CAMPBELL: Also, are we on the 4 second page of the document, or what page are we 5 on? 6 MR. COLLINS: We should be on Page 2 7 of the eleven-page document. And for 8 identification purposes at this time, I believe 9 we left off at 16. So this would be Gatlin 17. 10 Is that correct, Mr. Chairman? 11 MR. COLBERT: If you'll hold on a 12 second, I have my list. The last one I had was 13 Exhibit 16, which was a chiro/orthopedic bill. 14 So this would be 17. 15 MR. TYGART: And this is Travis. If 16 we could just -- we're not going to object to 17 these coming in, although I think we have a lot 18 of good reasons to do so. We're going to let 19 them in. But what I need to know and have in 20 the record that whatever document Dr. Black 21 testifies from is a document that I have in 22 front of me and that the panel has. 23 So my proposal for that, John, which 24 I think I would be comfortable with, would be 25 for him to identify -- where it says the Donor</p>	Page 740	<p>1 Exhibit 17. Group Exhibit 17. 2 MR. BOCK: Okay. Thank you. 3 Q. (By Mr. Collins) Going back to the 4 next one, the L-Carnitine -- Carnitine, could 5 you, Mr. Black, give the donor ID and laboratory 6 ID for that document? 7 A. In the upper right-hand corner, 8 donor ID is identified as L-Carnitine, and the 9 laboratory ID is 4334715. 10 Q. And what was the substance that was 11 tested? 12 A. Well, it was received by us as an 13 oval tablet. And, again, we provided the 14 testing for the same steroid precursor 15 chemicals. 16 Q. And approximately how many tablets 17 did you receive? 18 A. We received seven white oval 19 tablets. 20 Q. And what were the approximate weight 21 of the tablets? 22 A. The weight was 1.30 grams on 23 average. And they were contained within a black 24 plastic bottle labeled L-Carnitine. And there's 25 a lot number identified on this product, as</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

186 (Pages 741 to 744)

Page 741	Page 743
<p>1 well.</p> <p>2 Q. And what were the results of the</p> <p>3 tests that you ran on this substance?</p> <p>4 A. These were negative for the steroids</p> <p>5 and precursors that were included in our</p> <p>6 testing.</p> <p>7 Q. I'll turn your attention to the next</p> <p>8 document, which in the series I have is for a</p> <p>9 substance called Thermo Burst?</p> <p>10 A. In the upper right-hand corner, the</p> <p>11 third item I have has an ID of Thermo Burst with</p> <p>12 a laboratory ID of 4334716.</p> <p>13 Q. And this substance, what did you</p> <p>14 receive here?</p> <p>15 A. We received 42 light brown-colored</p> <p>16 oval tablets, average weight of 1.54 grams</p> <p>17 contained within a black plastic bottle. And</p> <p>18 the gold cap was labeled Thermal Burst.</p> <p>19 Q. And did you run the tests for</p> <p>20 testosterone and testosterone precursors on the</p> <p>21 substance?</p> <p>22 A. Yes. The same test was applied, and</p> <p>23 the result was none detected, or negative.</p> <p>24 Q. I'll turn your attention to the next</p> <p>25 one, which I have as Mega Men.</p>	<p>1 Quick Shot Creatine Gel.</p> <p>2 Q. And did you test this substance for</p> <p>3 testosterone and its precursors?</p> <p>4 A. We did and the results were none</p> <p>5 detected.</p> <p>6 Q. Which is a negative result?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Turning to the next one.</p> <p>9 A. The upper right-hand corner says the</p> <p>10 donor ID is Pure IGF Extreme. Laboratory ID is</p> <p>11 4334719. We received 30 millimeters of a cloudy</p> <p>12 brown liquid within a glass amber bottle</p> <p>13 containing a medicine dropper. And the testing</p> <p>14 for testosterone and the precursors and the</p> <p>15 other steroids tested were none detected, or</p> <p>16 negative.</p> <p>17 Q. Okay. Turn the page to the next</p> <p>18 one.</p> <p>19 A. The next report, upper right-hand</p> <p>20 corner, "Donor ID: Myoplex Original."</p> <p>21 Laboratory ID is 4334720. We received 82.024</p> <p>22 grams of a chocolate powder within a sealed</p> <p>23 drink mix pouch labeled as the Myoplex product.</p> <p>24 And the analysis for the same steroid-related</p> <p>25 compounds were none detected, or negative.</p>
Page 742	Page 744
<p>1 A. Yes. The next document, upper</p> <p>2 right-hand corner has a donor ID of Mega Men.</p> <p>3 And the laboratory ID is 4334717.</p> <p>4 Q. Okay. And what was this substance</p> <p>5 that you received here?</p> <p>6 A. We received 104 light brown oval</p> <p>7 tablets with an average weight of 1.366 grams.</p> <p>8 And they were contained within a white plastic</p> <p>9 bottle labeled Mega Men.</p> <p>10 Q. And did you run the test for</p> <p>11 testosterone and testosterone precursors on</p> <p>12 this?</p> <p>13 A. Yes. We conducted the same testing</p> <p>14 with none detected, or negative findings.</p> <p>15 Q. I'll turn your attention to the next</p> <p>16 document that I have, which is a quick shot</p> <p>17 Creatine gel.</p> <p>18 A. Yes. The upper right-hand corner of</p> <p>19 this document is "Donor ID: Quick Shot Creatine</p> <p>20 Gel," with a laboratory ID of 4334718.</p> <p>21 Q. What was the substance you received</p> <p>22 here?</p> <p>23 A. We received 30 milliliters of a</p> <p>24 purple gel, which was within a sealed black and</p> <p>25 red drink pouch. And it had a labeling on it of</p>	<p>1 Q. The next one, please.</p> <p>2 A. The next report in the upper</p> <p>3 right-hand corner is a donor ID of Thermo Burst.</p> <p>4 Laboratory ID of 4334721. We received 19 light</p> <p>5 brown oval tablets. Average weight of 1.15</p> <p>6 grams. They were contained within a black</p> <p>7 plastic bottle with a gold cap. And the results</p> <p>8 of testing this product were also none detected,</p> <p>9 or negative.</p> <p>10 Q. The next one, please.</p> <p>11 A. The next report, upper right-hand</p> <p>12 corner, Donor ID: CLA dietary supplement.</p> <p>13 Laboratory ID is 4334722. We received 52 clear</p> <p>14 capsules that contained a yellow liquid.</p> <p>15 Average weight of 1.745 grams, and contained</p> <p>16 within a black plastic bottle. And the results</p> <p>17 of analysis of this product were also none</p> <p>18 detected, or negative.</p> <p>19 Q. The next one, please.</p> <p>20 A. The next report has a donor ID of</p> <p>21 Adenergy. Laboratory ID of 4334713. We</p> <p>22 received 75 white oval tablets with an average</p> <p>23 weight of 1.17 grams in a black plastic bottle.</p> <p>24 And the test results for the analysis of this</p> <p>25 product were also none detected, or negative.</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

187 (Pages 745 to 748)

Page 745	Page 747
<p>1 Q. I believe there's one more.</p> <p>2 A. The next report upper right-hand</p> <p>3 corner donor ID is identified as Ultra Water.</p> <p>4 Laboratory ID 4334723. And we received 26 clear</p> <p>5 capsules containing a brown powder with an</p> <p>6 average weight of 900 milligrams. And they were</p> <p>7 contained within a black plastic bottle. And</p> <p>8 our results for this analysis were none</p> <p>9 detected, or negative.</p> <p>10 Q. Okay. Were you responsible for</p> <p>11 overseeing these tests?</p> <p>12 A. Ultimately, yes. Dr. Tim Roberts is</p> <p>13 the lab director here. The testing occurs in</p> <p>14 the laboratory. Dr. Roberts is responsible to</p> <p>15 me, and I'm responsible for what goes on in the</p> <p>16 laboratory.</p> <p>17 Q. And are you aware that the results</p> <p>18 are true and accurate?</p> <p>19 A. Yes.</p> <p>20 MR. COLLINS: Before I move to the</p> <p>21 next document, Mr. Cheris, have you received it?</p> <p>22 MR. CHERIS: I have.</p> <p>23 -- Q. (By Mr. Collins) Dr. Black, I would</p> <p>24 like to draw your attention to the next</p> <p>25 document, which is -- the cover page is a fax,</p>	<p>1 Q. Turning your attention to the next</p> <p>2 document.</p> <p>3 A. The next report, upper right-hand</p> <p>4 corner, "Donor ID: Graston mobilization cream."</p> <p>5 Laboratory ID of 4334765. We received 1.621</p> <p>6 grams of an off-white cream inside of a Ziploc</p> <p>7 bag labeled Graston mobilization cream. And the</p> <p>8 results of analysis of this product were also</p> <p>9 none detected, or negative.</p> <p>10 Q. The next one, please.</p> <p>11 A. The next report, upper right-hand</p> <p>12 corner, donor ID of Tecar cream. Laboratory ID</p> <p>13 of 4334766. We received 7.083 grams of a white</p> <p>14 cream inside of a Hefty Ziploc bag wrapped with</p> <p>15 cloth tape labeled Tecar. The results of this</p> <p>16 analysis were none detected, or negative.</p> <p>17 Q. Okay. The next one?</p> <p>18 A. The next report, upper right-hand</p> <p>19 corner, "Donor ID: Tecar Pro Massage Liquid.</p> <p>20 Laboratory ID: 4334767." We received 15</p> <p>21 milliliters of a clear liquid inside of a sealed</p> <p>22 amber glass bottle with a white cap. The</p> <p>23 analysis of this product resulted with a none</p> <p>24 detected, or negative report.</p> <p>25 Q. Okay. And then lastly, there's one</p>
Page 746	Page 748
<p>1 and there are six substances behind it. Six</p> <p>2 reports or six substances behind it. And the</p> <p>3 first one I have is the donor ID for a lipigel.</p> <p>4 Do you have that document?</p> <p>5 A. I do have that document.</p> <p>6 Q. Would you please describe what that</p> <p>7 is.</p> <p>8 A. The document I have, again, upper</p> <p>9 right-hand says, "Donor ID: Lipigel."</p> <p>10 Laboratory ID of 4334763. This is a -- we</p> <p>11 received 147 milligrams of a sticky orange gel</p> <p>12 inside a plastic cylinder with cloth tape</p> <p>13 labeled lipigel. And the results of this</p> <p>14 testing, including the same drugs as tested</p> <p>15 previously, was none detected, or negative.</p> <p>16 Q. Okay. I'd like to turn your</p> <p>17 attention to the next document. I have a donor</p> <p>18 ID of Biotone.</p> <p>19 A. Next document, upper right-hand</p> <p>20 corner, "Donor ID: Biotone," Laboratory ID</p> <p>21 4334764. We received 199.036 grams of a light</p> <p>22 yellow lotion inside of a clear plastic bottle</p> <p>23 with a white cap. And this was subjected to the</p> <p>24 same analysis, and the results were none</p> <p>25 detected, or negative.</p>	<p>1 for a DHEA, deep hydrating aloe cream.</p> <p>2 A. Yeah. The next report, upper</p> <p>3 right-hand corner, "Donor ID: DHEA deep</p> <p>4 hydrating aloe cream. Laboratory ID: 4334768."</p> <p>5 And the result of this analysis -- excuse me.</p> <p>6 We received 56 grams of the white cream inside</p> <p>7 of a sealed lotion tube labeled as DHEA, deep</p> <p>8 hydrating essential aloe cream. And the results</p> <p>9 of this testing were positive for DHEA.</p> <p>10 Q. Okay. And where did you receive --</p> <p>11 or from whom did you receive these substances?</p> <p>12 A. These products were sent to us by</p> <p>13 way of Attorney Cameron Myler.</p> <p>14 Q. And the same with these. Were you</p> <p>15 responsible for overseeing the testing of these</p> <p>16 substances?</p> <p>17 A. Yes.</p> <p>18 Q. And do these results truly and</p> <p>19 accurately reflect the testing on those</p> <p>20 substances?</p> <p>21 A. Yes.</p> <p>22 Q. And the results achieved?</p> <p>23 A. Yes.</p> <p>24 Q. You earlier indicated that you</p> <p>25 reviewed the test results, the A and the B from</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

188 (Pages 749 to 752)

Page 749	Page 751
<p>1 the 4-22-2006 samples; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. And your analysis of those results,</p> <p>4 were you able to form an opinion of whether or</p> <p>5 not those test results would be consistent with</p> <p>6 the application of a cream or other transdermal</p> <p>7 application within the past 24 hours or so?</p> <p>8 A. Yes.</p> <p>9 Q. And what was that opinion?</p> <p>10 A. The report -- the analysis and</p> <p>11 report indicate the presence of -- or indicate</p> <p>12 the use of testosterone, or precursor androgens</p> <p>13 or steroids. And those, in fact, can be</p> <p>14 absorbed and passed across the skin through</p> <p>15 transdermal absorption. And if they're used</p> <p>16 within 24 hours of the collection of the sample,</p> <p>17 it could result in a positive test.</p> <p>18 Q. When you say that's consistent with</p> <p>19 a transdermal application, you're not implying</p> <p>20 that that's the only possibility?</p> <p>21 A. No, no. Certainly there's no way of</p> <p>22 knowing from the test results what the route of</p> <p>23 administration was. It could have been by other</p> <p>24 means. By injection or oral route. The</p> <p>25 administration certainly could be by some other</p>	<p>1 transdermally?</p> <p>2 A. Yes, they can.</p> <p>3 Q. But transdermally is not the only</p> <p>4 way they can be applied?</p> <p>5 A. Yes. Correct.</p> <p>6 MR. COLLINS: I believe that's all I</p> <p>7 have for Mr. Black.</p> <p>8 MR. TYGART: This is Travis. May I</p> <p>9 proceed with a few questions?</p> <p>10 MR. COLBERT: Yes, please,</p> <p>11 Mr. Tygart.</p> <p>12 CROSS EXAMINATION</p> <p>13 BY MR. TYGART:</p> <p>14 Q. Dr. Black, how are you?</p> <p>15 A. Just fine, Mr. Tygart.</p> <p>16 Q. It's been a long time.</p> <p>17 A. Yes, it has.</p> <p>18 Q. But I hope you and your family are</p> <p>19 doing well. I'm going to ask a few questions.</p> <p>20 And be sure to let me know if you have trouble</p> <p>21 understanding them or can't hear them well. I</p> <p>22 know it's a little difficult with all of us by</p> <p>23 speakerphone. And I've got three kids running</p> <p>24 around the house, as well, so please forgive me.</p> <p>25 Let me start, I guess, just to clear</p>
Page 750	Page 752
<p>1 route. These results would be consistent with a</p> <p>2 cream or consistent with other ways of applying</p> <p>3 a drug.</p> <p>4 Q. Okay. Also these are tests based on</p> <p>5 urine samples; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. And would the urine samples</p> <p>8 determine exactly what the substance was?</p> <p>9 A. No, not by this testing.</p> <p>10 Q. Also, are you, in your practice,</p> <p>11 aware of any -- the existence of any creams or</p> <p>12 gels that contain testosterone?</p> <p>13 A. Oh, certainly. There are products</p> <p>14 that are used clinically for the application of</p> <p>15 testosterone. Solvey Pharmaceuticals has a</p> <p>16 product. Androgel very efficiently delivers</p> <p>17 testosterone transdermally. The FDA</p> <p>18 documentation indicates the delivery of</p> <p>19 testosterone to the blood occurs within 30</p> <p>20 minutes after application.</p> <p>21 Q. I've asked about testosterone. But</p> <p>22 precursors would also have the same result?</p> <p>23 A. The androtestosterone, they would be</p> <p>24 expected to behave in the same way clinically.</p> <p>25 Q. And, again, those could be applied</p>	<p>1 up a couple things with the supplement documents</p> <p>2 you just went through. I guess first starting</p> <p>3 on Gatlin 17, the first page, which I think you</p> <p>4 previously identified as the Essential Alpha</p> <p>5 Lean. Do you see that document?</p> <p>6 A. I do. I have it in front of me.</p> <p>7 Q. Okay. Where it says "specimen</p> <p>8 type," and it says "urine," did you actually</p> <p>9 receive any urine?</p> <p>10 A. No. That's boilerplate. The</p> <p>11 laboratory information system that we use has</p> <p>12 some boilerplate in it that's not easily</p> <p>13 manipulated.</p> <p>14 Q. So what you actually received are</p> <p>15 the products that are listed here, not the urine</p> <p>16 after someone claimed they used those products?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. That's what I thought. At</p> <p>19 the bottom where it says, "Certified by," and</p> <p>20 then, "Date," is there any reason why this</p> <p>21 document is not certified by anyone?</p> <p>22 A. Well, that, too, is boilerplate.</p> <p>23 For the analysis, most of the work that we do,</p> <p>24 the certification and the dating of</p> <p>25 certification occurs on the actual data for the</p>

Page 753	Page 755
<p>1 documentation itself. We do not, for much of 2 our work, register that information into the 3 lims. But our federal- regulated program for 4 our workplace drug testing, we have to do that. 5 And the boilerplate was established for that. 6 Q. Okay. 7 A. But for our sports testing and much 8 of our other testing, all of that documentation 9 would be contained within a data packet, when 10 that data packet is requested. 11 Q. So if there was a data packet 12 requested, would you have that certified by 13 someone and then a date that that was certified? 14 A. That's correct. 15 Q. So since it's not certified and 16 there is no date, does that imply there was no 17 data packet produced with this document? 18 A. We're not requested to assemble a 19 data packet. But in order for the tests to be 20 reported, there has to be a certified 21 scientist's review of the information. And 22 dependent on the case, there may also be a 23 review by Dr. Roberts. 24 Q. But there would be -- I guess, if it 25 were requested, there would be supporting</p>	<p>1 the instrument, or the cleanliness of that 2 particular injection to see below that. But the 3 reporting threshold would apply. If we saw a 4 response below 10 parts per million, it would 5 not be scheduled for confirmatory analysis. 6 Q. Okay. Just because you have the 7 screen cutoff and the confirmation cutoff 8 categories with the reporting threshold of 10 9 and 2 parts per million respectively, does that 10 mean that you did the confirmation analysis on 11 all of these products, or does it just indicate 12 that that is your reporting threshold for these 13 products? 14 A. If it's reported as a negative, 15 there are two possibilities -- or none detected. 16 One is that we did not see any responses on the 17 screen test that indicated there should be 18 confirmation testing applied. So it would have 19 been reported as none detected. Or it's 20 possible there was a response that we saw above 21 10 parts per million, but when it was scheduled 22 for confirmatory analysis, focusing on a 23 suspected compound, it was not identified to be 24 present at greater than 2 parts per million. 25 Q. Okay.</p>
Page 754	Page 756
<p>1 documents underneath, chromatograms and that 2 sort of thing, that would show the actual 3 analysis that was performed? 4 A. That's correct. The supporting 5 documentation would include all the chain of 6 custody documentation, the chromatography, mass 7 spectrography, and the review documentation. 8 Q. Okay. Let me ask you just a few 9 questions about the screen and the confirmation. 10 I see there it has listed on all these 11 documents, screen cutoff is 10 -- and that ppm, 12 is that parts per million? 13 A. It is. 14 Q. And the 2 for the confirmation 15 cutoff is also 2 ppm. Is that also parts per 16 million? 17 A. That's correct. 18 Q. And basically what that means, as I 19 understand it, is that your detection method 20 would go as low as that number. So for the 21 screen, 10 parts per million, but is it accurate 22 that it would not look below that number? 23 A. Well, it's 10 parts per million as a 24 reporting cutoff. It's certainly possible, 25 depending upon the signal or noise response on</p>	<p>1 A. So it's possible that -- I don't 2 have all the raw data in front of me, but it's 3 possible that some of these may have given an 4 indication of above 10 parts per million on the 5 screen, but on the confirmatory we did not 6 identify a compound as present, or as present 7 above 2 parts per million. 8 Q. Okay. Just so I have it, it's 9 possible that the screen, since that's, you 10 know, essentially a butter knife analysis, could 11 have indicated a need or suspicion to go to the 12 confirmation. But if you did go to the 13 confirmation and it was below the 2 parts per 14 million, it would indicate none detected? 15 A. That's correct. 16 Q. Okay. And, Dr. Black, you would 17 agree, wouldn't you, if any of these supplements 18 that were reported "none detected," if there was 19 any trace of a steroid -- of testosterone or a 20 testosterone precursor, that that would not 21 cause the positive test result in this case? 22 A. I would agree with that. 23 Q. Okay. Dr. Black, did you -- and let 24 me just ask you to flip just a couple of pages 25 to the one you identified as Pure IGF Extreme.</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

190 (Pages 757 to 760)

Page 757	Page 759
<p>1 A. I'm on that page. 2 Q. Okay. What is IGF, if you know? 3 A. IGF is insulin growth factor. 4 Q. Okay. Is that a prohibited 5 substance? 6 A. It is. 7 Q. And even in the sports that don't 8 test for -- I think you said things like 9 glucocorticosteroids, they do test for IGF? 10 A. Yes. 11 Q. Did you test this for IGF? 12 A. No, we did not. 13 Q. Did anyone request you to test this 14 for IGF? 15 A. No. We were only asked to test for 16 testosterone or its precursors. 17 Q. Okay. So the only tests you did on 18 the IGF, once again, identified as Pure IGF 19 Extreme, the only tests you did on that were for 20 the steroid precursors that you previously 21 identified? 22 A. Yes. 23 Q. Do you know if you have any of this 24 substance remaining? 25 A. This testing occurred just over a</p>	<p>1 in front of us. I would not know offhand if 2 that was sealed as a new product or if that came 3 to us already having been opened and used. 4 Q. And then you have in quotes "labeled 5 DHEA, Deep Hydrated Essential Aloe Cream." Did 6 it actually have "DHEA" written right on the 7 label? 8 A. Yes. 9 Q. So is it fair to say if someone 10 actually used that and bothered to look at the 11 label, they would clearly see DHEA there? 12 A. Yes. 13 Q. Did this one have a pink squiggly or 14 crooked "S" on it, by any chance? 15 A. I would have to look at the picture. 16 It's been quite some time, and I didn't go back 17 to look at each of the pictures in each of the 18 products. So I'd actually have to go back and 19 look at the picture to answer that. 20 Q. So it might. You just don't know? 21 A. Correct. 22 Q. Are you aware of where this product 23 came from? 24 A. All of the products -- in terms of 25 its original source or through the attorney?</p>
Page 758	Page 760
<p>1 year ago, but it's very likely we still have it 2 archived. We hold product and samples frozen 3 for a year. I'd have to verify. We're just 4 past the report date of July 13. But it is 5 possible this is still in holding. 6 Q. So you typically would hold it 7 frozen for a year, but since we're past that 8 date, you just don't know for sure if you still 9 have it? 10 A. That's correct. The staff is very 11 efficient at discarding the archived samples. 12 But it's certainly possible that this is still 13 on the premises. 14 Q. It's been a busy summer, as well. I 15 understand. Let me ask you if you'll look at, 16 on the other set of documents that you went 17 through, the last page, the DHEA deep hydrating 18 aloe cream. And just -- 19 A. I'm on that page. 20 Q. Okay. Thanks. Do you recall this 21 says -- where you read from -- "Received 56 22 grams" -- I assume -- "of white cream inside a 23 sealed lotion tube," was that a new package? 24 A. I would -- we take pictures of all 25 of our products. And we don't have the picture</p>	<p>1 Q. Its original source. 2 A. No. These came to us by way of 3 Cameron Myler. And I'm -- I would have to go 4 back to the documentation to look at the 5 shipping source, but they were all requested 6 through Cameron Myler's office -- 7 Q. Okay. 8 A. -- for the testing. 9 Q. Is it possible a manufacturer sent 10 this one to you directly? 11 A. That would be very unlikely. 12 Q. Okay. 13 A. Normally, product is sent to us by 14 an attorney or by an athlete themselves. 15 Q. Do you know if this was a product 16 that Mr. Gatlin used? 17 A. No, I do not. 18 Q. Does the name of the company Sarati 19 help refresh your recollection with respect to 20 the source of this product. 21 A. No. 22 Q. Have you ever heard of a company, 23 Sarati? 24 A. There are so many supplement 25 products or various products in the marketplace.</p>

Page 761	Page 763
<p>1 I have heard the term, and I think I've heard 2 the term in context with this case. But I don't 3 recall seeing a Sarati product directly. 4 Q. Okay. So you don't have any 5 recollection of testing any Sarati products? 6 A. That's correct. 7 Q. Dr. Black, have you -- let me start 8 here. Do your -- does Aegis do carbon isotope 9 abrasion testing? 10 A. No, Aegis doesn't offer the carbon 11 isotope abrasion test. 12 Q. And I didn't see any documentation 13 by you or Dr. Robert or anyone else at Aegis. 14 Did I miss that? 15 A. No, we are not published on that 16 methodology. 17 Q. And I also didn't see -- just going 18 through your CV, I didn't see any scientific 19 papers about the excretion times of synthetic 20 testosterone or its precursors. Have you 21 written any papers in that area? 22 A. No. 23 Q. And, similarly, I didn't see any 24 articles published by you concerning the effect 25 of synthetic testosterone or its precursors on</p>	<p>1 Q. -- prior to your testimony today? 2 A. Yes. 3 Q. And, of course, I know you were at 4 the B sample, as well, when you testified 5 earlier. Do you remember that the five Alpha 6 metabolite on the A sample was a negative 29.4? 7 A. I don't know if I remember. I'll 8 have to look at it. But I do recall that the 9 data was sufficient for identifying the presence 10 of synthetic. I am looking at the data right 11 now. 12 Q. Okay. There's no dispute over these 13 numbers. I just want to -- I just want to ask 14 you a few questions about those numbers. What 15 document do you have in front of you that would 16 help you identify the five Alpha, the five Beta, 17 and the pregnanediol? And then I'll walk you 18 through just a few questions. 19 A. I'm looking at the report that was 20 issued on June 29 by Michael Cetera with the 21 analytic data of the five Alpha, of the five 22 Beta, and the five pregnanediol. 23 Q. Let's use that. And for the rest of 24 our benefit, you said Exhibit 5(B), the 25 second-to- the-last page. And, Dr. Black, just</p>
Page 762	Page 764
<p>1 the testosterone metabolite. Did I miss 2 something there again, or is that accurate? 3 A. That's accurate. I've not published 4 in those areas. We've certainly conducted the 5 excretion studies for our own purpose, but not 6 for publishing. 7 Q. Tell me if I'm wrong. When you 8 earlier formed an opinion about where the 9 prospective test results in Mr. Gatlin's case 10 came from, possibly being consistent with the 11 use of a transdermal application of testosterone 12 and its precursors within a 24-hour time period, 13 that opinion is based on you reviewing the 14 literature primarily? 15 A. Well, reviewing the literature, as 16 well as training. The transdermal application 17 of medication is quite common in pharmacy and in 18 medicine. So although we're talking about a 19 specific application, it's a generally available 20 way of administering drugs. And one of the many 21 routes of administrating medication. 22 Q. And, Dr. Black, I think you 23 testified earlier you reviewed the lab packs in 24 this case -- 25 A. Yes.</p>	<p>1 to make sure I'm referring to the same page you 2 are, it's a letter dated June 29, 2006, to Terry 3 Madden at USADA? 4 A. Correct. 5 Q. It says, "Confidential drug testing 6 report for USADA 7712," and then in parentheses, 7 "87M05B"? 8 A. Yes. 9 Q. And it's signed by Dr. Michael 10 Cetera? 11 A. Yes. 12 Q. What is the five Beta number that is 13 listed there? 14 A. The five Beta Androstenediol? 15 MR. COLLINS: Travis, this is John 16 Collins. 17 MR. TYGART: Yeah? 18 MR. COLLINS: Just so I know I'm 19 looking at the right one, is this the one that 20 in the top upper right-hand corner it says Page 21 11? 22 MR. TYGART: Yes. 23 MR. COLLINS: And it's 4045607? 24 MR. TYGART: Right. 25 Q. (By Mr. Tygart) And, Dr. Black,</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

192 (Pages 765 to 768)

Page 765	Page 767
<p>1 just to get you to the right document, on that 2 letter where it says "IMS Laboratory Conclusion: 3 Positive - outside the normal ranges," and then 4 just below it, it says "analytical data" -- do 5 you see that? 6 A. I'm sorry. Say that again. 7 Q. About -- close to just two lines 8 above the signature line where it says 9 "analytical data," and it's underlined -- 10 A. Yes. 11 Q. -- do you see that statement? 12 A. Yes. 13 Q. So that first column, which is the 14 five Beta metabolite; is that correct? 15 A. It's the Androstenediol, yeah. 16 Q. And that's at negative 28.9; is that 17 right? 18 A. That's correct. 19 Q. And the next column where it says 20 five Alpha -- 21 A. The five Alpha Androstenediol. 22 Q. That's a negative 25.7; is that 23 right? 24 A. That's correct. 25 Q. And then the next column is what</p>	<p>1 A. Correct. 2 Q. And then again, for ease of all of 3 us, I'm going to refer to the other two 4 metabolites as the five Alpha and the five Beta. 5 Would you agree that the five Alpha and the five 6 Beta are metabolites that are downstream of 7 testosterone? 8 A. Yes. 9 Q. And if you use synthetic 10 testosterone, you would see a bigger number, 11 although it is a negative number. But you would 12 see an increase in that five Alpha and that five 13 Beta metabolite; is that correct? 14 A. Well, I don't know if that's correct 15 or not. I don't know if that's necessarily 16 true. I don't know if there's enough data to 17 say that absolutely. The DHEA and 18 Androstenediol insert themselves upstream from 19 the testosterone. And what the relative 20 contribution may be compared with the 21 testosterone administration, I think that's a 22 dilemma. You can't tell that. You can't tell 23 which is used. 24 Q. And I probably confused that 25 question, because I said testosterone. And I</p>
<p>Page 766</p> <p>1 column? 2 A. That's the five Beta pregnanediol. 3 Q. And is the pregnanediol and -- for 4 ease of my voice and in reference for the rest 5 of us, I'm just going to call that the P-diol; 6 is that okay? 7 A. Sure. 8 Q. So the P-diol, is that, as you 9 understand it, the endogenous reference 10 compound? 11 A. It's one of a number that can be 12 selected to compare the Carbon 12-Carbon 13 13 ratio against. The laboratory may choose 14 others, but that is one of the reference 15 compounds, yes. 16 Q. And in this case, that was the 17 endogenous reference compound that was selected 18 for analysis by the UCLA laboratory? 19 A. Yes. 20 Q. And the reason you select an 21 endogenous reference compound like the P-diol is 22 because if you use synthetic testosterone or its 23 precursors, it will have no effect on that 24 endogenous reference compound. In this case, 25 the P-diol; is that correct?</p>	<p>Page 768</p> <p>1 mean if you used testosterone or its precursors, 2 it will affect -- or it may affect the five 3 Alpha and the five Beta metabolites? 4 A. Oh, yes. This is a very delicate 5 test. No, these downstream metabolites can be 6 distinguished from the P-diol. 7 Q. And if they are affected -- and 8 affected becoming more negative, as we see 9 here -- that assures you of the use of 10 testosterone or its precursors? 11 A. Yes. 12 Q. And what you said earlier, that you 13 could use DHEA, you don't know for sure how much 14 that's going to affect the five Alpha and the 15 five Beta; is that right? 16 A. Well, it would certainly be hard to 17 predict. I think we can say with a high degree 18 of certainty that DHEA or Androstenediol, which 19 are precursors to testosterone, would have an 20 impact on this test. 21 Q. Okay. Do you think a contaminated 22 supplement -- a supplement contaminated through 23 the manufacturing process with Androstenediol or 24 DHEA could result in an increase in the five 25 Alpha and the five Beta to the extent you see</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

193 (Pages 769 to 772)

Page 769	Page 771
<p>1 here?</p> <p>2 A. Well, I guess we'd have to have a</p> <p>3 better quantitative definition of</p> <p>4 "contaminated." For most of the contaminated</p> <p>5 substances I've seen, I would say no. I would</p> <p>6 not think that a contaminated substance would</p> <p>7 result -- there would be enough contaminant in</p> <p>8 the product to lead to these results.</p> <p>9 Q. And that's a -- I appreciate your</p> <p>10 answer. And I'm not talking about a spiked</p> <p>11 supplement. I'm talking about just a</p> <p>12 contaminated supplement through the</p> <p>13 manufacturing process.</p> <p>14 A. Yeah, we've seen contaminated</p> <p>15 supplements with considerable variances, in</p> <p>16 terms of how much contamination. But certainly</p> <p>17 there is a distinction, as you just referred to,</p> <p>18 with a spiked product with a chemical entered by</p> <p>19 intention, as opposed to a poor manufacturing</p> <p>20 process.</p> <p>21 Q. And would that -- what you just</p> <p>22 said, you're in agreement, I think, with me,</p> <p>23 that a contaminated supplement would not cause</p> <p>24 these -- this increase of the five Alpha and the</p> <p>25 five Beta. To this extent, would that also hold</p>	<p>1 cream -- and let me be broader than that.</p> <p>2 Would you agree that topical use,</p> <p>3 whether by patch, gel, or cream has a slower</p> <p>4 absorption into the body than an oral use of</p> <p>5 testosterone?</p> <p>6 A. Not necessarily. Transit through</p> <p>7 the gut can take sometimes, depending upon food</p> <p>8 in the stomach, perhaps a couple of hours. An</p> <p>9 hour and a half or an hour for a drug to be</p> <p>10 effectively absorbed and taken up into the blood</p> <p>11 stream.</p> <p>12 The Solvey Pharmaceutical data on</p> <p>13 their androgen product indicates delivery into</p> <p>14 the blood within 30 minutes. So I don't know</p> <p>15 that that would necessarily hold in all cases.</p> <p>16 Transdermal administration is effective.</p> <p>17 Q. But, Dr. Black, that's -- what you</p> <p>18 just referenced there was not the blood system;</p> <p>19 is that right?</p> <p>20 A. Correct.</p> <p>21 Q. So my question was, Would you agree</p> <p>22 that an oral injection -- excuse me. An oral</p> <p>23 use or an injected use would more rapidly</p> <p>24 affect -- would more rapidly affect -- show its</p> <p>25 effects in the urine than a topical use of</p>
Page 770	Page 772
<p>1 true for a cream or a lotion that may be</p> <p>2 contaminated?</p> <p>3 A. I would -- well, I would have to</p> <p>4 agree if it's a contaminated substance of low</p> <p>5 parts per million or even parts per billion</p> <p>6 contamination, that it would, more likely than</p> <p>7 not, lead to a result such as this.</p> <p>8 Q. Dr. Black, would you agree that the</p> <p>9 reference to Mr. Gatlin's endogenous reference</p> <p>10 compound by the UCLA laboratory of minus 28.1,</p> <p>11 and the difference between the five Alpha and</p> <p>12 the five Beta in testosterone metabolites --</p> <p>13 would you agree that's a significant difference?</p> <p>14 A. It is certainly significantly</p> <p>15 different to define them as positive. It's</p> <p>16 greater than 3 delta units, and it's above a</p> <p>17 minus 28 criteria under the technical document.</p> <p>18 So I would say certainly this is a clear</p> <p>19 positive.</p> <p>20 I don't know if I would put a degree</p> <p>21 on it, if this is a really strong positive.</p> <p>22 I've reviewed about ten such cases. So I would</p> <p>23 not have the body of knowledge necessarily that</p> <p>24 the folks at the UCLA laboratory would have.</p> <p>25 Q. Okay. Would you agree that a</p>	<p>1 synthetic testosterone?</p> <p>2 A. Well, whether taken orally or</p> <p>3 transdermally, the first drug has to be absorbed</p> <p>4 into the blood compartment. Once it's in the</p> <p>5 blood compartment, it's going to be absorbed</p> <p>6 into the kidneys and then appear in the urine.</p> <p>7 So in terms of lag times, the drug would have to</p> <p>8 first be in the blood and then go into the</p> <p>9 urine.</p> <p>10 If there were food delay out of the</p> <p>11 stomach or some absorption issue from the</p> <p>12 stomach that delays absorption into the blood,</p> <p>13 then the drug would be present in the urine</p> <p>14 after a transdermal administration.</p> <p>15 Q. Okay.</p> <p>16 A. But either way, the drug should</p> <p>17 appear within hours in the urine. Perhaps even</p> <p>18 sooner, depending on the conditions.</p> <p>19 Q. And when you say appear in the</p> <p>20 urine, you mean in -- do you mean affecting the</p> <p>21 five Alpha -- affecting the testosterone</p> <p>22 metabolites the way we see here, or do you mean</p> <p>23 detected in the urine by some other means?</p> <p>24 A. Well, the metabolites, too, would be</p> <p>25 detected rather readily. As blood is being</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

194 (Pages 773 to 776)

Page 773	<p>1 filtered through the kidneys, there is also</p> <p>2 blood flow through the liver. Metabolite is</p> <p>3 going to occur. And those metabolites will be</p> <p>4 occurring in the blood compartment fairly</p> <p>5 quickly. So there's certainly going to be a lag</p> <p>6 time between each of these dynamic events. But</p> <p>7 I don't know that I would be able to point to a</p> <p>8 pharmacokinetic study that shows oral or</p> <p>9 transdermal of this drug showing a competitive</p> <p>10 presence in the urine or how quickly each one</p> <p>11 goes into the urine.</p> <p>12 Q. Would you think it's likely that a</p> <p>13 testosterone cream applied to the skin -- to the</p> <p>14 knee area and the leg area an hour before drug</p> <p>15 testing would result in these test results?</p> <p>16 A. I can't exclude it as a possibility.</p> <p>17 I think it could be argued that it may be</p> <p>18 improbable. I don't know that I could say that</p> <p>19 I could exclude it as a possibility. The</p> <p>20 transdermal absorption of the drug, by studies,</p> <p>21 have shown very quick delivery into the blood.</p> <p>22 And from the blood, there's obviously a dynamic</p> <p>23 event from filtration through the kidneys and</p> <p>24 metabolism through the liver. I don't know that</p> <p>25 I could exclude it; but I may say that it's less</p>	Page 775	<p>1 at -- you're looking at the carbon make-up, and</p> <p>2 to change -- would you agree to change your</p> <p>3 carbon make-up from a 24, as we see in the</p> <p>4 P-diol, to a 29 as we see in the five Alpha,</p> <p>5 that's a significant change that would take</p> <p>6 either a tremendous amount or a sustained amount</p> <p>7 over time? Would you agree with that statement?</p> <p>8 A. I would agree that's one way to</p> <p>9 state it. I don't know anything about Justin's</p> <p>10 metabolism. I don't know anything about his</p> <p>11 enzyme systems. We do know that there are --</p> <p>12 for almost any drug that we talk about, there</p> <p>13 are fast metabolizers and slow metabolizers, and</p> <p>14 a majority of people in between.</p> <p>15 But the whole field of</p> <p>16 pharmacogenomics, which looks at how drugs are</p> <p>17 handled within individuals, there's a growing</p> <p>18 appreciation that there's a greater diversity of</p> <p>19 how individuals handle drugs than what has been</p> <p>20 previously understood.</p> <p>21 I don't know if -- Justin may be a</p> <p>22 fast metabolizer. He could be a slow</p> <p>23 metabolizer, which would make this event more</p> <p>24 improbable.</p> <p>25 Q. Okay. You testified earlier that --</p>
Page 774	<p>1 probable.</p> <p>2 Q. Okay. Would you say that it's</p> <p>3 highly unlikely?</p> <p>4 A. As a scientist, I usually like a lot</p> <p>5 of numbers to look at to form an answer to such</p> <p>6 a question. Based upon what I know, I could</p> <p>7 only -- I think I'm most comfortable in saying I</p> <p>8 think I could exclude it. I think it's less</p> <p>9 likely.</p> <p>10 Q. Okay. And it's less likely because,</p> <p>11 again, a cream has to absorb into your body, be</p> <p>12 processed, and end up in your urine? Is that</p> <p>13 essentially the problem?</p> <p>14 A. That's correct.</p> <p>15 Q. And an hour is an awfully short time</p> <p>16 for that to occur; wouldn't you agree?</p> <p>17 A. I think it is a short time. I think</p> <p>18 another dynamic event as part of this process is</p> <p>19 the testing being applied is extremely</p> <p>20 sensitive. We're dealing in low parts per</p> <p>21 billion. So there's more to consider than just</p> <p>22 the dose administered and the route of</p> <p>23 administration. There's a factor in trying to</p> <p>24 determine how probable this might be.</p> <p>25 Q. But for CIR results, you're looking</p>	Page 776	<p>1 I think you said that it could be consistent</p> <p>2 with absorption of the cream within 24 hours of</p> <p>3 use or transdermal use. You'd also agree that</p> <p>4 it's just as consistent with an injection of</p> <p>5 testosterone?</p> <p>6 A. Yes.</p> <p>7 Q. And would you also agree it's just</p> <p>8 as consistent with the use of an oral dose of</p> <p>9 testosterone?</p> <p>10 A. Yes.</p> <p>11 Q. And on those two questions, use of</p> <p>12 testosterone or its precursors?</p> <p>13 A. Correct, yes.</p> <p>14 Q. Are you aware of any scientific</p> <p>15 studies that show an hour after use of a topical</p> <p>16 testosterone cream, gel, or patch would result</p> <p>17 in metabolites that we see here with the five</p> <p>18 Alpha and the five Beta compared to negative 24</p> <p>19 B-diol?</p> <p>20 A. No. Clinical testing doesn't use</p> <p>21 clinical isotope abrasion testing. I'm not</p> <p>22 aware of any clinical studies or any large base</p> <p>23 of data that would support that.</p> <p>24 Q. Okay.</p> <p>25 MR. TYGART: You know, Dr. Black, I</p>

Page 777	Page 779
<p>1 appreciate your time. Let me just look at my 2 notes real quick. 3 I think that's all the questions I 4 have, Dr. Black. We appreciate your time. I'll 5 turn you back over to the panel. 6 MR. CAMPBELL: Thank you. 7 Mr. Collins, do you have any redirect? 8 MR. COLLINS: I have a few more. 9 10 EXAMINATION 11 BY MR. COLLINS: 12 Q. With respect to the substance that 13 you received from Cameron Myler, the DHEA, do 14 you recall having discussions with Cameron Myler 15 about how there was concern that the DHEA cream 16 may have been rubbed on Justin Gatlin? 17 A. Yes, I do. 18 Q. And do you recall hearing that there 19 was indications that the DHEA had a pink "S" on 20 the tube as Mr. Tygart asked you? 21 A. I must confess, I don't recall that 22 conversation with Cameron. Specifically, I know 23 the name Sarati was brought up, but I don't know 24 about the pink logo. 25 Q. Do you recall Cameron indicated that</p>	<p>1 products appear to fall into two groups: those 2 with quite low concentrations of banned chemical 3 presence, as opposed to other products where it 4 appears the banned product has been added 5 intentionally. 6 Q. And Mr. Tygart also asked you in 7 talking about the difference between the diols, 8 the P-diol and the A-diol, I believe it was, was 9 approximately minus 5. A little less than that 10 actually. About 4 and a half. And he indicated 11 that might show an extended period of use over 12 time. Do you recall that question? 13 A. Yes. 14 Q. Would the fact -- would an extended 15 period of time, in your knowledge, of a Sierra 16 test -- if there was a negative Sierra test a 17 week later, would that change your opinion? 18 A. I'm sorry. Could you reform the 19 question? 20 Q. Sure. He indicated that those 21 differences would -- could likely be from an 22 extended use of one of the upstream substances; 23 is that correct? 24 A. Yes. 25 Q. If there had been extended use,</p>
Page 778	Page 780
<p>1 she had looked up on the Internet and found DHEA 2 substances? 3 A. Oh, yes. 4 Q. And it was Cameron Myler who 5 supplied the substances to you? 6 A. Yes. 7 Q. And she did not indicate that she 8 had received that substance from Justin Gatlin, 9 did she? 10 A. No, I don't think so. 11 Q. Also, Mr. Tygart asked you a number 12 of questions about contaminated creams or 13 substances. And I believe there was also some 14 discussion of spiked substances. And this was 15 in the context of the difference between the B- 16 and the P, or the A- and the P-diols that we 17 just went through.. 18 A. Yes. 19 Q. A spiked substance could actually 20 have a far higher concentration, correct? 21 A. Yes. 22 Q. That's sort of the difference 23 between a spiked and a contaminated? 24 A. Yes. There's no clear definition 25 between the two. Although the supplement</p>	<p>1 would you expect there to be a negative Sierra 2 test when there was not that difference just 3 seven days later? 4 A. It all depends on the form of 5 administration. But I personally don't know 6 that such a distinction can be made. Usually 7 there's little interpretive value out of urine 8 with regard to length of use, how much, and 9 exactly when. 10 But if there had been repeated 11 injections of drug, then I would expect the CIR 12 to remain positive for a longer period of time. 13 But orally ingested products are in and out of 14 the body quickly. Transdermal compounds with 15 discontinuation of use would result in a 16 negative test rather quickly. 17 I would think the most likely 18 negative would be for injectable, where there 19 would be a continual leaching at the injection 20 point, and it would continue to be leaching into 21 the body. 22 Q. When you said the better way, you're 23 not saying the only way would be discontinued 24 use? 25 A. No.</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

196 (Pages 781 to 784)

Page 781	Page 783
<p>1 Q. There certainly could be use within 2 24 hours? 3 A. Yes. 4 Q. And there was a lot of discussion 5 about what would happen within one hour. Do you 6 recall that? 7 A. Yes. 8 Q. And you said it would be unlikely. 9 Or it would be less likely, I think you said. 10 A. Well, I think the more compressed 11 time frame makes it less likely. I don't have a 12 body of literature that will necessarily support 13 that opinion. I'm using general principles of 14 pharmacology and toxicology to form such an 15 opinion. 16 Q. But if the same substance or 17 substances were rubbed on more than once within 18 24 hours, it would not rely just on the one 19 application an hour before, correct? 20 A. Well, if there had been several 21 applications over a 24-hour period, then I would 22 think that that would make it more likely that 23 it would be very consistent with such an 24 application. 25 MR. COLLINS: I have nothing</p>	<p>1 well, it appears that Justin Gatlin has 2 naturally low concentrations of testosterone and 3 epitestosterone. Now, this appears to be 4 natural. You know, certainly if someone takes 5 androgenic anabolic steroids for some period of 6 time, they can suppress their production. But 7 the testosterone and epitestosterone results 8 seem very consistent between the number of 9 laboratories that were involved in the testing. 10 So it would seem that this would be, 11 perhaps, a natural condition within him. But 12 there are low concentrations of the 13 testosterone. Certainly the epis are more on 14 average around of the normal concentration. 15 Around 30, 35 nanograms per million. 16 MR. CAMPBELL: And talking about 17 testosterone and epitestosterone, are there 18 other sorts of -- I don't know what you call 19 these, but any of those number of values, would 20 they be affected by suppression? 21 THE WITNESS: By suppression, the -- 22 I think in a technical document that the ratios 23 can be affected. And those ratios may be 24 altered by use. But I don't see anything here 25 that seems to be significant. There doesn't</p>
Page 782	Page 784
<p>1 further. 2 MR. COLBERT: Mr. Tygart? 3 MR. TYGART: I don't have any 4 further questions. 5 MR. CAMPBELL: How are you doing, 6 Dr. Black? Chris Campbell. 7 THE WITNESS: Just fine, sir. 8 MR. CAMPBELL: Have you studied the 9 issue of suppression with -- endogenous 10 suppression of different steroids within the 11 body in the event that steroids are taken? 12 THE WITNESS: Oh, yes. 13 MR. CAMPBELL: And I don't know if 14 you have this in front of you. It would be 15 Exhibit 0295. Well, it's Bates number 295, 16 which was one of -- I think in the document 17 package that I think you were given, which would 18 be the longitudinal steroid profile. 19 THE WITNESS: Yes, I have that right 20 in front of me. 21 MR. CAMPBELL: And I'm looking at -- 22 if you could take a look at that, could you tell 23 me whether you see any evidence of suppression 24 in this profile? 25 THE WITNESS: Well, I think the --</p>	<p>1 seem to be any significant fluctuations or 2 deviations. 3 MR. COLBERT: Mr. Campbell, I don't 4 mean to interrupt, but for the record, please, 5 Doctor, if you could describe what you mean "for 6 suppression." 7 THE WITNESS: The suppression of the 8 system for the natural production of androgens. 9 MR. COLBERT: I just want to make 10 sure it's in the record. I just want you to 11 explain "suppression," and what you mean by 12 suppression. 13 THE WITNESS: Well, suppression 14 occurs as a consequence of the use of the 15 synthetic products where the intricate system of 16 feedback loops indicate there's no need to 17 produce the natural product or the natural 18 testosterone and epitestosterone and other 19 androgens. 20 MR. COLBERT: And would suppression 21 affect, generally speaking -- using your 22 toxicological background, would it affect 23 suppressed testosterone, as well as testosterone 24 of roughly the same ratios? 25 THE WITNESS: My experience has been</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

197 (Pages 785 to 788)

Page 785	Page 787
<p>1 if there's suppression, it affects both the 2 testosterone and the epitestosterone. In fact, 3 we have seen cases where you have virtually no 4 detectable testosterone, and perhaps 5 epitestosterone. 6 MR. COLBERT: Thank you. Sorry, 7 Chris. I just wanted to make sure that was on 8 the record. 9 MR. CAMPBELL: No, I appreciate 10 that. That helps. If you don't mind, I'd like 11 to ask a few more questions, if I can get my 12 head straight. 13 So if Mr. Gatlin was using a 14 consistent application of testosterone, would 15 you expect suppression in this profile that we 16 have? 17 THE WITNESS: Yes. And I would 18 expect the suppression to occur equally on the 19 testosterone and the epitestosterone, if he were 20 using testosterone. 21 MR. COLLINS: Do you have any 22 indication of how reliable of an indicator 23 suppression is of taking synthetic testosterone? 24 THE WITNESS: You know, I make my 25 statements based upon having applied the science</p>	<p>1 these answers to a specific gravity of 1.020. 2 Most of Justin's urines are quite 3 concentrated. He has generally a high specific 4 gravity indicating dehydration. So some of 5 these numbers are overstated by the fact that 6 they're -- the urines are quite concentrated. 7 They have specific gravities well above 1.020. 8 So I guess I should have further 9 clarified my answer by saying if these were 10 normalized to 1.020, the concentrations would be 11 quite normal. 12 MR. COLBERT: I believe you also -- 13 I wanted to return to some of the products that 14 you tested. 15 THE WITNESS: Yes. 16 MR. COLBERT: You were asked some 17 questions about the DHEA. I think perhaps 18 Mr. Collins has cleared it up, but looking at 19 the sheets that you provided to us -- for 20 example, I'm looking at the very last one. And 21 I think you were asked a question about the fact 22 that it says, "inside a sealed lotion tube 23 labeled DHEA, deep hydrating essential aloe 24 cream." 25 THE WITNESS: Yes.</p>
Page 786	Page 788
<p>1 to very large athlete populations. But based 2 upon my experience, and without a -- let's say a 3 study of 10,000 individuals where we knew they 4 were steroid users, and we were able to discern 5 that there are some that do not have suppressed 6 androgen systems, from my experience, for those 7 individuals who do not routinely use anabolics, 8 we would see very low volumes of testosterone or 9 epitestosterone, and they may not even be 10 detectable. 11 MR. CAMPBELL: Thank you, Dr. Black. 12 MR. TYGART: This is Travis. As 13 soon as the panel is done, we'll have some 14 follow-up. 15 MR. COLBERT: Mr. Cheris, do you 16 have any questions? 17 MR. CHERIS: No, I don't. 18 MR. COLBERT: This is Edward 19 Colbert. I think you testified that the 20 epitestosterone looks to be a fairly normal 21 level quantitatively, whereas you thought the 22 testosterone levels looked naturally low. 23 THE WITNESS: That's correct. I 24 didn't do the average on these, so -- I didn't 25 average them out, and I did not adjust all of</p>	<p>1 MR. COLBERT: But I thought you 2 testified earlier that you wouldn't know whether 3 it actually came in a sealed tube or not. 4 THE WITNESS: Well, I guess a 5 picture is worth a thousand words. And I guess 6 the forensic scientist in me, if I was going to 7 go answer that question absolutely, I'd want to 8 go back and look at the tube itself. 9 MR. COLBERT: And you have the 10 photographs of these products? 11 THE WITNESS: We do. 12 MR. COLBERT: I would ask that 13 Dr. Black provide to the parties and the panel 14 the photographs. 15 And, Mr. Collins, maybe you can, for 16 the record, state whether or not this last 17 product, the DHEA cream, was obtained by the 18 investigators or -- 19 MR. COLLINS: It was. 20 MR. COLBERT: So this was acquired 21 by Cameron Myler and included? 22 MR. COLLINS: Correct. 23 MR. COLBERT: Are there any other 24 products in either one of these reports that 25 were similarly provided not through the</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

198 (Pages 789 to 792)

Page 789

1 investigators?
 2 MR. COLLINS: The investigators -- I
 3 don't believe so. There is six total, correct?
 4 Five of them came from the investigators.
 5 MR. COLBERT: All right. So, for
 6 example, Mr. Collins, the lipigel came from the
 7 investigators?
 8 THE WITNESS: Correct. The lipigel,
 9 the Graston, the Bioderm, the Quintessence, and
 10 the Tecar cream all came from the investigators.
 11 MR. COLBERT: Dr. Black --
 12 THE WITNESS: Yes?
 13 MR. COLBERT: -- I want to ask you a
 14 question. There's a question about a sticky
 15 orange gel on the first one: Lipigel.
 16 THE WITNESS: Yes.
 17 MR. COLBERT: And the very last one,
 18 DHEA cream, is described as a cream. It says
 19 it's a white cream. There's been some testimony
 20 about a consistency of a particular product that
 21 was applied to the athlete, and it was described
 22 as thick and peanut butter-like. That it has to
 23 be smeared on.
 24 Do you have any particular
 25 familiarity with the lipigel product, such that

Page 790

1 you could describe it other than a sticky orange
 2 gel?
 3 THE WITNESS: No, I do not.
 4 MR. COLBERT: The white cream -- do
 5 you have any particular knowledge of the white
 6 cream that's described as the DHEA product, that
 7 it would be described as a thick, peanut
 8 butter-like substance?
 9 THE WITNESS: No, I cannot. But,
 10 again, I could verify whether we have these
 11 products available.
 12 MR. COLBERT: Okay. I'd like to
 13 know that.
 14 THE WITNESS: So the pictures, as
 15 well as the products.
 16 MR. BOCK: If I could just -- this
 17 is Bill Bock. I just want to clarify those
 18 questions. They caused me a little bit of
 19 concern, because I think when I examined
 20 Mr. Gatlin, he said that the peanut butter-like
 21 reference was not a description of the
 22 consistency of the product, but rather the
 23 amount that was applied to him.
 24 MR. COLLINS: I was going to raise
 25 the same point, Bill. This is John Collins.

Page 791

1 MR. COLBERT: Well, the record will
 2 show what it shows. At this point, we'll have
 3 to rely on what the record shows.
 4 I think that may be the only
 5 question that I had. I think between Mr. Cheris
 6 and Mr. Campbell, most of my questions were
 7 answered. Mr. Tygart had a follow-up.
 8 MR. TYGART: I have some follow-up,
 9 and then I had a statement that I wanted to make
 10 on the record.
 11 REDIRECT EXAMINATION
 12 BY MR. TYGART:
 13 Q. Dr. Black, you were asked a few
 14 questions by the panel concerning this steroid
 15 profile that was provided. When did you receive
 16 that profile?
 17 A. Let's see. Recently. It was within
 18 the last several days.
 19 Q. Okay. How much time have you spent
 20 reviewing that profile?
 21 A. I looked at it. I didn't have
 22 enough time to do all the specific gravity
 23 normalizations on it, so I have looked at it
 24 for, I guess in total, looking at it several
 25 times, perhaps an hour.

Page 792

1 Q. Perhaps an hour?
 2 A. Yes.
 3 Q. Did you run any graphs showing the
 4 variability between any of the T and E numbers?
 5 A. No, I did not.
 6 Q. Did you run any comparisons between
 7 the T and the andro and the T and the etio
 8 numbers?
 9 A. I didn't do my own calculations for
 10 those, no.
 11 Q. And based on the limited view that
 12 you put into this document, I think your
 13 conclusion -- I think what you said, assuming
 14 that these are all adjusted numbers for specific
 15 gravity, that it looks like Mr. Gatlin has a
 16 naturally low T/E ratio; is that --
 17 A. He has a naturally low testosterone.
 18 And the specific gravity calculations applied to
 19 the epis, they will come down to normal. But
 20 the ratios themselves would not change. But,
 21 yes, it does appear that the ratio is very
 22 consistently normally low.
 23 Q. And are you familiar with what's
 24 called a low mode individual?
 25 A. I don't think I've heard that term

7-30-07 to 8-01-07

USADA vs. GATLIN

199 (Pages 793 to 796)

Page 793	Page 795
<p>1 before. 2 Q. You've never heard that term before? 3 A. I don't think so. 4 Q. Are you aware that there are some 5 individuals, even in certain populations, that 6 do not produce testosterone or epitestosterone 7 in their urine? 8 A. Oh, yeah. Well, I certainly know 9 that there are outlier individuals on both ends 10 of the spectrum. We have individuals with 11 normal T/Es above 4-to-1, and we have other 12 individuals that have normal T/Es below 1. 13 Q. And these -- I guess what I'm 14 getting at, since you're not familiar with the 15 low mode individuals, are you aware that there 16 are certain people, and particularly groups of 17 certain populations that can take synthetic 18 testosterone or synthetic epitestosterone, and 19 it's not going to show up in their urine? 20 A. At all? 21 Q. It will have no effect on their 22 testosterone-to-epitestosterone ratio. 23 A. Well, I'm certainly not familiar 24 with the low mode terminology clinically. I 25 guess I'm familiar with the notion that someone</p>	<p>1 have to, Travis. The question is, Is there a 2 history of suppression? And the history of 3 suppression comes from this chart. 4 A. I guess my response to that is -- I 5 don't mean to be critical -- numbers -- all of 6 these numbers, since these were all negative 7 tests, come from a screening assay that are not 8 typically going to be quantified to either the 9 testosterone or the epi. 10 Certainly the caliber is always done 11 for the testosterone. But since they were 12 negative findings, they were not always done 13 with a confirmatory significance in triplicate. 14 I wouldn't wonder if that's an 15 outlier and how accurate that answer is. It 16 certainly could be an outlier, because these are 17 not confirmed results that we're looking at on 18 this chart. 19 Q. (By Mr. Tygart) Okay. But I think 20 in your testimony earlier, you were assuming all 21 of these were what they were. So in your mind, 22 if that's an accurate number, does that 23 epitestosterone that is at 123.3 in comparison 24 to these other numbers, does that cause you any 25 concern that doping may be going on?</p>
Page 794	Page 796
<p>1 could take the synthetic testosterone -- by what 2 route of administration? 3 Q. Well, let's say any. Injection, 4 oral, cream. 5 A. And the drug will not show up in the 6 urine? 7 Q. Yeah. 8 A. I guess I'd have to ask, Where does 9 it go? That's quite interesting. I think I'm 10 pretty well-educated in the field. I don't 11 think I've ever heard of a drug going in the 12 body, but never coming out. 13 Q. Okay. Let me ask you about a test 14 result on 9-11-04. Do you see that test result? 15 A. I'm almost there. Yes, I am. 16 Q. Okay. Sorry? 17 A. Yeah. 18 Q. Does that epi number cause you any 19 concern? 20 MR. COLLINS: I'm going to object. 21 It seems irrelevant with a number two years 22 before the incident. 23 MR. TYGART: And let me just ask 24 this now -- 25 MR. CAMPBELL: I don't think you</p>	<p>1 A. It could certainly be suggestive. 2 It could be reason to run -- before there's 3 suspicion, to run a carbon isotope abrasion 4 test. And it would have to be normalized. So 5 this 123 would fall even further if you 6 identified this. 7 Q. And that's assuming it's not 8 normalized, right? 9 A. Correct. 10 Q. And on that same test, the andro and 11 the etio numbers also caused you concern, 12 particularly in relation to the other numbers 13 there? 14 A. Well, there's certainly higher 15 numbers. Again, I'm assuming these are not 16 normalized numbers. All of these numbers come 17 down. Again, by a technical standard on this, 18 there's typically no suspicion until it exceeds 19 108,000 nanograms per million. And this doesn't 20 have units on it. I'm assuming these are 21 nanograms per mil. 22 Q. Dr. Black, I did see on your resume 23 you have done -- and, I'm sorry, I missed some 24 of these. But one of them was a talk you gave 25 on beating drug tests.</p>

7-30-07 to 8-01-07

USADA vs. GATLIN

200 (Pages 797 to 800)

Page 797

1 A. Yes.
 2 Q. Are you aware of one way a person
 3 can beat a drug test is by using testosterone
 4 and epitestosterone?
 5 A. Oh, certainly. Certainly. By the
 6 way, that goes to lecture people on what people
 7 are doing to beat drug tests. It's not to
 8 advise people how to cheat.
 9 Q. I'm assuming it wasn't to a group of
 10 athletes.
 11 A. Right. It's to inform people what
 12 to look for. That's come up before. I wish I
 13 wouldn't have titled it that.
 14 Q. When you look at the 7-8-2005 test,
 15 which is further down, where it has "none
 16 detect" -- "none detect TMV" means it was too
 17 small to detect. Does that cause you any
 18 concerns?
 19 A. In terms of the testosterone, they
 20 were unable to detect testosterone, but they
 21 found 16 of epi.
 22 Q. Right.
 23 A. In terms of, quote, concern, I would
 24 say this is an outlier. This would be unusual.
 25 I just don't know if it's suspicious, quote, to

Page 798

1 take action on it to suspect that someone is
 2 doping. I would presume if that were true, then
 3 there would have been action taken on this.
 4 Q. You testified earlier, and I just
 5 wanted to make sure I heard you right about
 6 reviewing. Did you say you reviewed
 7 longitudinal profiles of 10,000 people you knew
 8 to be using steroids?
 9 A. No, no, no. I said I'm not aware of
 10 any such large studies that have studied
 11 individuals who are -- say, 10,000 individuals
 12 who are taking testosterone or synthetic
 13 anabolic steroids, so we could see in all 10,000
 14 if some have suppressed systems and some are not
 15 suppressed.
 16 Q. You're just saying in your opinion,
 17 there's not enough done to put weight on this
 18 chart, one way or the other?
 19 A. That's correct. I'm saying there's
 20 not a body of knowledge that allows us to look
 21 at this data and go very far with our
 22 conclusions.
 23 Q. And, in fact, you testified in the
 24 Tim Montgomery hearing; is that right?
 25 A. I did.

Page 799

1 Q. And I think it was your position
 2 there that you shouldn't rely on these documents
 3 for any purpose. Do you recall that?
 4 A. Yeah.
 5 MR. COLBERT: Before I interrupt,
 6 can I ask you to clarify what you mean by "these
 7 documents"?
 8 MR. TYGART: I'm sorry. A
 9 longitudinal profile study.
 10 A. In terms of how these are applied, I
 11 think it's problematic to take 20 negative tests
 12 and turn them into a positive test.
 13 Q. (By Mr. Tygart) And do you recall
 14 at that hearing -- do you recall -- well, let me
 15 ask it this way: How many longitudinal studies,
 16 prior to the Tim Montgomery case, had you
 17 performed?
 18 A. Oh, gosh. Going back to the '80s, I
 19 don't know. 30 or 40 or 50. I don't know.
 20 I've never kept track.
 21 Q. Okay.
 22 A. But I've certainly done it many
 23 times on athletes.
 24 Q. Okay.
 25 A. I mean, that's how we identified

Page 800

1 several that were naturally elevated T/Es.
 2 Q. In all of those -- you say the old
 3 system. All of those had -- all of those were
 4 done when you reviewed an athlete's T/E that was
 5 over 6-to-1; is that correct?
 6 A. Yes.
 7 Q. So you really -- prior to Tim
 8 Montgomery -- never really had experience
 9 looking at historical data; is that right?
 10 A. Oh, going back and recovering?
 11 Well, I have had other cases where there has
 12 been longitudinal data collated prior to the Tim
 13 Montgomery case.
 14 Q. Okay. That was historical data?
 15 A. Yes.
 16 Q. And you were dealing with a positive
 17 that had -- or an elevated that was over 6-to-1.
 18 at least, right?
 19 A. Yes.
 20 Q. Okay.
 21 A. I don't recall -- we had tested our
 22 staff longitudinally just to have a database of
 23 T/E ratios. We have a fellow on staff that has
 24 a T/E ratio of less than 5, and we've tested him
 25 over time.

7-30-07 to 8-01-07

USADA vs. GATLIN

201 (Pages 801 to 804)

Page 801	Page 803
<p>1 Q. Just so I'm clear, you've never 2 heard the term "low mode" -- 3 A. Not a term I'm familiar with. 4 Q. -- as it relates to the processing 5 of synthetic testosterone in one's body? 6 A. And the drug goes in, but it doesn't 7 come out? 8 Q. That's right. 9 A. I'll be talking to a Pharm.D. 10 before the day is out about that. I haven't 11 heard of that. 12 Q. I'm going to send you some papers, 13 Dr. Black. 14 A. I'd appreciate that. I'd like to 15 look at that. But that's contrary to all the 16 scientific knowledge I have. It must go 17 somewhere. 18 Q. Did John Collins consult you at all 19 on the stipulation that the parties entered -- 20 I'm sorry. The second stipulation that the 21 parties entered with respect to individuals that 22 use synthetic testosterone whose T/E ratios 23 don't increase? 24 A. I am aware that there is a practice 25 of using cream products to try to stay below the</p>	<p>1 these suppression points because they weren't 2 relevant, we think it would be a travesty if 3 reliance is given on any of the questioning and 4 the statements that we just went through with 5 respect to the longitudinal study. 6 MR. COLBERT: All right. 7 Mr. Collins, Mr. Tygart had a substantial amount 8 of follow-up. Do you have anything? 9 MR. COLLINS: I do have one thing, 10 just to clarify it for the record. 11 RECROSS EXAMINATION 12 BY MR. COLLINS: 13 Q. Dr. Black, could you look at the 14 document -- I believe it's USADA 0295. 15 A. I do have that. What exhibit is 16 that? 17 Q. It's the follow-up to the exhibit 18 that we're looking at. 19 A. That would be Exhibit 29? 20 Q. I believe so. I don't -- 21 A. Okay. 22 Q. Do you see that document, Dr. Black? 23 A. I do. 24 Q. You were talking earlier about the 25 calibrations and what they were for. Does that</p>
Page 802	Page 804
<p>1 4-to-1. 2 Q. That's not the question. 3 A. I'm sorry. 4 Q. The question again was, Did 5 Mr. Collins talk -- speak with you about the 6 parties' second stipulation in which the parties 7 agreed that there are certain 8 populations/persons that can use synthetic 9 testosterone, and whose T/E values won't change? 10 A. No, I don't think I heard that 11 stipulation. 12 MR. TYGART: Okay. I have no 13 further questions, but I just want the record to 14 say clearly the panel had some questions, and I 15 assume is investigating a piece of this case 16 that the parties did not think was relevant. 17 If the panel is going to rely on any 18 of that questioning, we would appreciate the 19 opportunity to have a witness who has, you know, 20 one, the knowledge of the low-mode situation, 21 but also has the additional experience, from our 22 end, to address the panel's concerns. 23 Because it would be -- particularly 24 in light of the fact that the parties did not 25 bring witnesses or prepare witnesses on any of</p>	<p>1 document indicate what it was optimized for? 2 A. It does. The letter is stating that 3 when they provided this data, that the data on 4 the longitudinal study is from screening data. 5 Since these were initially found to be negative 6 on the screening, it says, "Our steroid screen 7 assay is optimized for quantification. The 8 screen is not optimized for epitestosterone, but 9 it will provide reasonable calculations of the 10 epitestosterone concentration." 11 Q. And there's another sentence after 12 that that says it's not for -- 13 A. "The androgen, the testosterone or 14 the eleven Betas." And that would be true. On 15 a screening assay, you're really looking just 16 typically for the presence of the compounds. 17 Part of the confirmatory process is 18 to do a much better compound for what you 19 believe is present. And it's important for 20 quantifying how much is there. So it is not the 21 business of the screening assay to put out a 22 good quantitative answer. That is reserved for 23 the confirmatory procedure. 24 Q. So when you said there could be 25 outliers in the screening process -- I think</p>