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JOHN W. KEKER

May 31, 2011

**Via Electronic Mail**

Jeffrey Fager, Chairman  
CBS News  
555 W. 57<sup>th</sup> Street  
New York, NY 10019

Re: May 22 Broadcast of 60 Minutes

Dear Mr. Fager:

We write to demand that *60 Minutes* explain to viewers that the assertion made in your May 22, 2001 broadcast that Lance Armstrong tested positive for a banned substance in 2001 Tour of Switzerland was incorrect, false, and broadcast in error. We also demand that you issue an on-air apology to Mr. Armstrong for the demonstrable falsehood that you recklessly presented, and then bolstered with other untrue assertions and facts taken out of context.

A centerpiece of your May 22<sup>nd</sup> broadcast was the allegation that Mr. Armstrong tested positive for EPO during the 2001 Tour of Switzerland. *60 Minutes* provided a forum for Tyler Hamilton to state that Mr. Armstrong had tested positive at the Tour of Switzerland, 2001 and that “people took care of it” and “figured out a way for it to go away.” Host Scott Pelley then attempted to bolster Mr. Hamilton’s allegation with a letter leaked from a government investigator to “the Swiss lab that did the test. That letter reveals that the lab found the initial test of a urine sample ‘suspicious’ and ‘consistent with EPO use.’” Then, host Pelley alleged, based on an anonymous source, that “we have also learned that the lab director met with Johan Bruyneel, Postal’s manager, and Lance Armstrong. Such a meeting would be highly unusual according to David Howman, the director general of the world anti-doping agency.” Finally, host Pelley suggested bribery on Mr. Armstrong’s part, when he reported that “around the time the International Cycling Union arranged that unusual meeting, Armstrong donated 25 thousand dollars to the cycling union—the same organization that polices doping. Three years later he announced another one-hundred thousand dollar donation.”

We alerted *60 Minutes* producers in advance of the show that virtually every single one of these allegations was false. We provided evidence to prove it, and we warned CBS that the

defamatory message that it sought to convey was an outrage. 60 Minutes went ahead with the broadcast anyway.

Now, just one week after the broadcast, further factual proof has come to light, demonstrating beyond doubt that the factual assertions at the heart of the 60 Minutes broadcast were false. Stripped of its factual moorings, the show's final allegation of bribery was nothing more than a hatchet job.

➤ **There was no positive test result for Lance Armstrong at the 2001 Tour of Switzerland**

Needless to say, the core of the claim regarding a positive test in 2001, a suspicious meeting with a lab director, a cover-up, and Mr. Pelley's suggestion of bribery was Tyler Hamilton's assertion that Mr. Armstrong had a positive test during the 2001 Swiss tour. That allegation, upon which 60 Minutes' defamatory house of cards was built, is simply not true. A record of all positive tests recorded during that race demonstrates that Mr. Armstrong did not test positive. Furthermore, stage-by-stage leader results for the race demonstrate Mr. Armstrong would have been tested no less than five separate times during the race. Had there been a positive test, it would be easy to prove. Indeed, the absence of a positive test is easy to prove. Your story was based on a falsehood.

➤ **There was no secret meeting at the Swiss lab during the Tour of Switzerland involving the lab director, Mr. Armstrong and Johann Bruyneel**

According to the *Washington Post*, "the Swiss lab director who has attracted the attention of federal and anti-doping investigators trying to determine whether Lance Armstrong covered up a positive drug test for erythropoietin (EPO) from the 2001 Tour de Suisse said Friday there was no positive test and no clandestine meeting between him and Armstrong and, as far as he knew, appropriate drug-testing procedures were followed." ["Swiss lab director says he found no positive result for Lance Armstrong," May 27, 2011].

According to the *Washington Post*, "Saugy also said that a meeting he had with Armstrong and Johan Bruyneel regarding EPO testing occurred in 2002, about a year after the 2001 race, and had nothing to do with results from the '01 race. He said it was part of an attempt to provide general education on a new testing method that had been controversial with athletes because of early problems. Indeed, in 2001 a positive EPO test of a world-class middle distance runner was thrown out because the testing method used hadn't been properly certified. 'The meeting was organized one year later at a period when the test was very much criticized by the sport and the scientific community,' Saugy said. 'The meeting was organized. . . . by UCI in respect to the transparency

needed or requested by the athletes in general on the methods of detection of doping from the labs.” [Washington Post, May 27, 2011]

According to a separate report, “Saugy said that the meeting did not take place at the Swiss lab -- as stated by Hamilton in the *60 Minutes* TV show -- but during a trip made to collect blood samples. ‘And it also wasn’t about discussing a particular result or to cover up anything. I explained how the EPO test worked and why there were suspect samples as well as positive ones. This information was part of a lecture that I had been giving in various locations.” [Cycling News, May 27, 2011]

In other words, not only was there no positive test in the 2001 Tour of Switzerland, as you falsely reported, but there was no 2001 meeting with the lab director to cover it up, as you also falsely reported. In this regard, Mr. Pelley’s on-air interview with Mr. Howland of WADA about how unusual such a meeting with a lab director was, simply created an innuendo of improper conduct from pure fiction. Certainly in the absence of either a positive test, or any 2001 meeting with the lab director, Mr. Pelley’s discussion of how suspicious and unusual the meeting was were untethered to reality, and instead broadcast solely to create the desired defamatory effect.

➤ **There was no cover-up of any test result by Mr. Armstrong or anyone else**

Dr. Saugy has now told reporters that “I never suspect mishandling of the result by UCI. It was not a positive result. The same [actions] would occur today.” [Washington Post, May 27, 2011]

➤ **Lance Armstrong did not attempt to influence the UCI with his charitable contributions**

In the absence of a positive test, in the absence of a suspicious test, and in the absence of an unusual meeting, the suggestion by host Scott Pelley that Mr. Armstrong’s charitable contributions to the UCI were corrupt is the baseless icing on the defamatory cake.

Simply put, the allegations at the very core of the *60 Minutes* broadcast are untrue. *60 Minutes* built its story on a series of falsehoods, and then took one fact, Mr. Armstrong’s contributions to UCI, and presented them in a false light. What is particularly disturbing is that *60 Minutes* had access to the true facts, could easily have verified them, and apparently chose instead to broadcast untruths and then layer innuendo on top of the falsehoods. There was no positive test belonging to Lance Armstrong. There was no suspicious test result belonging to Lance Armstrong. There was no meeting at the Swiss lab to talk about any test results. There was no bribery to cover up something which had never occurred.

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In the cold light of morning your story was either extraordinarily shoddy, to the point of being reckless and unprofessional, or a vicious hit-and-run job. In either case, a categorical on-air apology is required.

Very truly yours,



JOHN W. KEKER  
ELLIOT R. PETERS

JWK/blc