

# **EXHIBIT 74**

**BEFORE THE AMERICAN ARBITRATION ASSOCIATION**

North American Court of Arbitration for Sport Panel

United States Anti-Doping Agency, )  
)  
Claimant, )  
v. )  
)  
Floyd Landis, )  
)  
Respondent )  
\_\_\_\_\_ )

AAA No. 30 190 00847 06

**DECLARATION OF CYNTHIA MONGONGU**

I, Cynthia Mongongu, declare:

1. I am, and since September 2003, have been, employed as an analytical chemist with the *Laboratoire National de Dépistage du Dopage* (LNDD).
2. I am fluent in reading and writing English and semi-fluent speaking English.
3. I was involved with obtaining the results of the analyses that LNDD conducted in July 2006 and August 2006 of A and B samples, identified by the number 995474, which we now understand were samples Mr. Floyd Landis gave after Stage 17 of the Tour de France. I was involved as an analyst for the A sample, and as the verifying scientist for the B sample IRMS confirmation procedure performed by Claire Frelat. During the Stage 17 B sample preparation and analyses, Mr. Landis was represented by Dr. Douwe De Boer. Two attorneys for Mr. Landis were also present but they left after verifying that the B sample's seal was intact and witnessing the opening of the sample bottle.

4. More recently, I have been involved with the analyses the United States Anti-Doping Agency (USADA) requested that LNDD conduct of Mr. Landis' B samples from other stages of the Tour de France and of three control samples that Dr. Rodrigo Aguilera supplied as part of the blinding process we followed. LNDD conducted and reported the results of these analyses between April 16, 2007 and April 23, 2007. My duties involving these analyses included sample preparation, the identification of pre-IRMS compounds by GC-MS, IRMS analysis, data handling and data reduction for the IRMS confirmation.

5. During my professional career, I have performed two analyses of B samples, besides the one at issue here, where the athlete or his or her representatives have observed under international and national rules and standards.

6. I have reviewed the Declaration of Paul Scott, dated April 27, 2007, that has been filed in this matter, which purports to describe events that occurred during the April 2007 analyses. The Scott Declaration contains a number of inaccurate statements. It also fails to mention important facts that bear on any evaluation of the April 2007 analyses.

7. During the week of April 16, Mr. Landis' representatives were allowed rights to observe and access to information and documents that far exceeded the scope of what Mr. Landis' representatives requested or were allowed during the Stage 17 analyses in August 2006. To the best of my knowledge, there was no aspect of the sample handling, preparation, analyses or reporting that Dr. De Boer requested or was allowed to observe with respect to the Stage 17 B sample that Mr. Scott or Dr. Davis did not also observe or have the opportunity to observe for the samples analyzed the week of April 16, 2007.

8. The April 2007 analyses began on Monday April 16, 2007, with a meeting among representatives of LNDD, USADA and Mr. Landis. Mr. Landis' representatives included Dr. Simon Davis and Paul Scott. Representing USADA were Dr. Aguilera and its outside counsel Daniel J. Dunn of the law firm of Holme Roberts & Owen.

9. On Wednesday, April 18, 2007, I was working on three tasks at once. I was (1) working on the preparation for two other samples, (2) preparing the IRMS machine for the next sample, and (3) performing the data reduction on the first sample. Data reduction is one of the final steps in the IRMS analysis before results are reported. Data reduction includes data integration, verification and printing (which Mr. Scott apparently calls "data processing" in his declaration). Data reduction occurs after the IRMS and GCMS machines have completed their analyses. I must take extreme care and pay careful attention so I do not make any errors.

10. On Tuesday, April 17, 2007, the top of a small, partially filled test tube broke. Such breakage is not uncommon. When Mr. Scott saw that the tube had broken, he jumped up and accosted me. Mr. Scott demanded to know what had happened, became very agitated, and encroached into my space as I was working. As I was distracted in my work by Mr. Scott's interference, I told Mr. Scott's interpreter that no one should talk to me or distract me while I was working. Mr. Scott then wanted to retrieve the broken sample tube out of the trash can. My colleague, Dr. Corinne Buisson, stated that the trash can was full of sample tubes and pointed out to Mr. Scott that finding the tube that had broken would be nearly impossible. Mr. Scott said that we should not worry about finding the broken sample tube and we had no further discussion on the issue. I then requested that white tape be placed around the area where I was working so that observers would stand behind the tape and would not bother and distract me again while I worked.

11. On Monday, April 16, 2007, and Tuesday, April 17, 2007, Mr. Scott and Dr. Davis intruded upon my personal space as I was preparing the samples, and asked numerous questions while I worked. I felt very bothered and distracted by Mr. Scott and Dr. Davis during my preparation of the samples.

12. As stated above, I have conducted two other B sample analyses which were observed by onlookers. Typically, observers stand back quietly, ask no questions and, at most, quietly take notes. Mr. Scott's and Dr. Davis' disruptive actions while I worked were not typical of observers of data reduction processing. Mr. Scott and Dr. Davis made me significantly more nervous than any observers in previous situations had. In previous B sample observations, I had never experienced the same pushy, invasive behavior and the same number of questions asked by Mr. Scott and Dr. Davis.

13. On the morning of Wednesday, April 18, 2007, I was again performing the three steps of (1) working on the preparation of two other samples, (2) preparing the IRMS machine for the next sample, and (3) performing the data reduction on the first sample. I learned from Dr. de Ceaurriz, Dr. Buisson, and Claire Frelat that Mr. Scott had said, through his interpreter, that he wished to observe the data reduction and that Mr. Scott or Dr. Davis asked if they could at that moment go to the IRMS room in the laboratory area to watch over and ask questions of me as I performed the data reduction and printed the results. I also learned from others that Dr. de Ceaurriz stated that they could not observe the data reduction at that point, because I had to perform my work without disruption, and had to concentrate. In light of Mr. Scott's previous disruptive behavior, I feared having Mr. Scott as an observer would have distracted me from my work and would have increased the risk of error.

14. On the morning of Friday, April 20, 2007, Dr. de Ceuriz agreed to a compromise suggested by the USADA representatives the evening before to address Mr. Scott's and Dr. Davis' concerns about viewing the data reduction and printing. Mr. Scott and Dr. Davis were given the opportunity to observe the data reduction and printing with the next sample that I was processing that day. They were offered the chance to stand right behind me as I sat at the computer and performed the functions. They were encouraged to ask all of the questions they wanted about what I was doing and why. In response to these offers and overtures, Mr. Scott stated that they no longer needed or wanted to observe those parts of the process because their information needs had been fully satisfied by the detailed written information and explanations we had given them regarding the earlier samples.

15. On the afternoon of Saturday, April 21, 2007, I offered Mr. Scott the opportunity to observe the data reduction process on the fourth sample. Mr. Scott declined this offer.

16. At approximately 11:15 a.m. on Sunday, April 22, 2007, I saw Mr. Scott and his interpreter sitting on a bench across from the laboratory. Mr. Scott was knitting a sweater. He said good morning to me and to Claire Frelat as we entered the laboratory.

17. Mr. Scott and the interpreter stayed on the bench outside the laboratory all day without again asking permission to enter, to my knowledge.

18. On Monday, April 23, 2007, at approximately 9:45 a.m., as I was returning from an ISO meeting, which was in a different building, Mr. Scott was again sitting on the bench outside the laboratory.

19. On Monday, April 23, 2007, at approximately 1:00 p.m., I received a message from the laboratory's receptionist that Mr. Scott wanted to speak to someone on the IRMS team. I went outside to speak to Mr. Scott. He told me that the data packet he had received contained an error: the dossier contained the mix-cal IRMS of the 21<sup>st</sup> rather than of the 22<sup>nd</sup> sample. I told him that I would correct the error as soon as I finished my lunch. Once I finished my lunch, I corrected the error.

20. Neither on Monday, April 16, 2007, nor on any other day during which I observed Mr. Scott or Dr. Davis at the laboratory did any person associated with Mr. Landis voice an objection to proceeding with the analysis of the samples in the absence of an expert appointed by the arbitration panel.

21. Neither on Monday, April 16, 2007, nor on any other day during which I observed Mr. Scott or Dr. Davis at the laboratory did any person associated with Mr. Landis request that the remaining B samples should be split or divided in some way to preserve any part of them for other testing.

I declare under penalty of perjury under the laws of France and the State of California  
that the foregoing is true and correct and that this declaration was executed on April 30, 2007.

  
Cynthia Mongongu