



VICTIMIZER OR VICTIM?

TRAVIS TYGART TALKS

At the recent 2013 Annual Meeting in San Francisco, **Travis Tygart**, the Chief Executive Officer of the United States Anti-Doping Agency (USADA), spoke about his battle to expose cyclist Lance Armstrong as a serial doper and sporting fraud.

In June 2012, USADA notified seven-time Tour de France winner Lance Armstrong that it was formally charging him with violations of the USADA code involving the use of performance enhancing drugs (PEDs). The allegation was that Armstrong and his cycling team had been involved in systematic use of banned PEDs. The formal charges included allegations of PED possession and trafficking, and aiding and abetting in a cover-up of drug violations. The charges were the result of a several-year-long investigation into allegations about Armstrong and his team, prompted by revelations made to USADA by Floyd Landis, a former Armstrong teammate and disgraced Tour champion who had been stripped of his yellow jersey for using banned substances to win the 2006 Tour. Based on those allegations, USADA went to work, interviewing witnesses and sifting through evidence. Meanwhile, Armstrong, wealthy and well-connected, led a media-based, political and legal assault against cyclists and others who dared to speak to the investigators, against the investigation and against Tygart. Under USADA rules, Armstrong was entitled to a fair hearing, and the matter was headed to such a hearing when, at the eleventh hour, Armstrong announced he would not contest the charges. As a result of his default, in August of 2012, USADA banned Armstrong from all Olympic-sanctioned sports for life and ordered all of his competitive victories from 1998 onward nullified. Later, in accordance with the rules, it issued a comprehensive “reasoned decision” documenting the evidence it relied on for its ban.



Tygart is a lawyer. He graduated from Southern Methodist University in 1999, and early in his career worked for Fulbright and Jaworski as a litigation associate, then as a sports lawyer with the firm of Holme Roberts & Owen. In 2002, he went to work for USADA as Director of Legal Affairs and became its CEO in 2007. Tygart explained that while USADA receives funding from the federal government, it is an independent non-profit agency tasked with ensuring clean sport. Unfortunately, USADA's jurisdiction is limited to those sports organizations who have agreed to submit to its rules. Those professional sports that we commonly associate with doping, pro football and baseball, do not accept USADA's jurisdiction. (For all the bad publicity cycling comes in for, it is far ahead of big pro sports in cleaning up its sport. A first violation for a cyclist typically carries a two-year ban and likely job loss; in football, a four-game suspension.) Cycling, though, as an Olympic sport, does come under USADA jurisdiction, as USADA administers drug testing of U.S. athletes for the U.S. Olympic Committee. American professional cyclists are thus subject

to USADA jurisdiction, which is how Tygart and Armstrong came to blows.

Full disclosure: I am a huge fan of professional cycling. I raced bicycles as a master's amateur for many years, and more than once have been among the screaming throngs who line the mountain passes of France as the peloton surges past. When former three-time Tour de France winner Greg LeMond's career prematurely dissolved in the wake of a tragic shooting accident (but not before he'd marked a stunning comeback from the near-death experience to win two more Tours and a second world championship) I, and thousands of other fans, eagerly awaited a new American cycling hero.



We found that hero in Lance Armstrong. What a story! Poor kid from a broken family, raised on the wrong side of the tracks. World class triathlete is a teen. Precocious World Champion in 1993, in Oslo, Norway, in his first year as a pro cyclist, at age 21. Winner of several dramatic stages of the Tour de France in his early 20s. Stricken with advanced metastatic testicular cancer in 1995, and then cruelly let go, basically given up for dead, by the French team Cofidis that had hired him away from his U.S. team. Then, like Lazarus risen, he won the 1999 Tour de France, seemingly better off from his near death experience: leaner, meaner and far better at climbing the brutal mountain stages than he'd been before cancer.



Then, as his successive victories in the great race mounted, so did the rumors of doping. Even the most zealous of Armstrong fans, and I guess I counted myself among them, could not fail to wonder how he could dominate the other great tour riders while riding clean, when year after year, his rivals were implicated in doping. Marco Pantani, Jan Ullrich, Barjane Reis, Joseba Beloki, Ivan Basso, Alex Zulle, Tyler Hamilton, Floyd Landis; all confessed or were at least suspended at some point for drug involvement. (In all, 20 of the 21 podium finishers in the Tour between 1999-2005 have now been directly linked to PED use.) I suppose we all knew, deep in our hearts, that Lance's run of victories was too good

to be true. Yet, Armstrong made a convincing argument: "I am the most tested rider in history. I live in France and train in France, one of the strictest anti-doping countries in the cycling world. I am not a cheat."

Then came Lance's retirement in 2005 at the end of seven straight tour victories. A feat never accomplished before and likely never to be achieved again. He retired as the greatest Grand Tour rider in history. In 2009, he returned for a brief two-year comeback. Now we saw an athlete in the autumn of his prime. More vulnerable, now beatable, less self-assured. No victories this round. Not even any stage wins. Then a second retirement. Fade to black.

So when in 2010 Tygart started investigating Armstrong, many of us were a little resentful and perhaps suspicious of his motives. "Hey, Lance never tested positive. What is the agenda here? A crusade to boost Tygart's own career? Even if Lance did dope, why bother? He's retired now. It's all in the past. Let the man rest. If he did dope, so what? They all doped. He is a national treasure and an icon of the campaign to cure cancer." And much of the press seemed to bend Lance's way, portraying him as a victim of Tygart's crusade. Tygart was perceived by many fans as persecuting Armstrong for unclear but perhaps selfish motives. When I saw Tygart's name on the program as speaker at the fall meeting, I admit I still had some lingering impression that he was persecuting Armstrong.

Travis Tygart's forty-minute presentation to the College lay to rest any doubt as to who was the victim and who the victimizer. Tygart's presentation showed that he was subjected to a multi-fronted attack by the pro-Armstrong camp, a victim of political intimidation, lawsuits, press vilification and even death threats. But more importantly, he made an airtight case for why it matters that PEDs be eradicated from all professional sports.

First, Tygart reminded us that Armstrong was not a retired athlete back home on the couch when the charges were brought; rather, he had become a professional triathlete who was training seriously to win the Ironman World Championship. (USADA has jurisdiction over

triathlon as well.) On the latter point, Tygart reminded us of the tragedy of those clean athletes, like Scott Mercier, who refused to dope and whose careers were cut short. (He could have recounted the story of American pro cyclist David Zabriskie, whose troubled childhood centered around growing up with a father who was a drug addict, who broke down in tears when told that he'd have to start injecting dope if he wanted to succeed in pro cycling. Zabriskie unfortunately acquiesced.) Tygart also explained that even if safe amounts of performance PEDs could be administered, different athletes have markedly different responses to PEDs so that pro sports in a PED-permitted future would be dominated by the best responders, and not the most gifted athletes. He argued too, that even if a safe dose of a PED were permitted, there would always be those who would try to go beyond the permitted safe level, and then the anti-doping agencies would still be chasing the same offenders, but now, instead of asking "if," they would be asking "how much?" Most convincing was Tygart's argument that if PEDs were allowed in pro sports, then it would be even harder to keep them out of college sports which, after all, have become the farm programs for pro teams. And if the college athletes were then permitted to use them, how soon after would high school athletes insist, who, after all, are striving to get onto the top college teams? Tygart stated that he didn't want to see the day that parents had to engage in the difficult conversation about when to start their gifted pre-teen athlete on a drug program so that he could keep up with the other kids.

On the question of who was hounding whom, Tygart recounted being criticized in the national media by Armstrong's powerful friends, examples being articles by Washington Post sports columnist Sally Jenkins, who wrote several pieces critical of Tygart's investigation. Hardly impartial, Jenkins had co-authored two of Armstrong's best-selling books.

Tygart received a letter from a member of the House Judiciary Committee inquiring into the prosecution of Armstrong, and legislation was introduced, aimed at the USADA. Inquiries came from others on the Hill stimulated by lobbyists favorable to Armstrong and his charity. Tygart was never far from recalling that his living might be endangered, given that USADA depends on federal funding.

Tygart described Armstrong's intimidation of his fellow athletes, recounting how he chased down a breakaway made up of cyclists who posed no threat to him in the overall Tour standings, simply to ruin the chances for a win by one cyclist in that group who had agreed to speak to authorities about doping. Tygart recounted his own moment of doubt, describing the morning he was driving his young daughter to school and almost became physically sick after receiving a call from a reporter who broke the news to him that Armstrong had just sued not only USADA, but Tygart himself, in a federal lawsuit aimed at trying to derail the USADA investigation.

Tygart has demonstrated personal bravery. Having received multiple death threats from presumed fans of Armstrong, he went to the FBI, assisted in their investigation, and was pleased to report at the College meeting that two of the threatening fans had recently pled to federal charges and were possibly on their way to prison.

Tygart was credible in his assertion that he is more interested in learning the truth, and getting PEDs out of athletics, than in ruining cyclists' careers. He reminded us that all the cyclists who came forward and admitted the truth during his investigation were rewarded by receiving the lightest possible suspensions. He reiterated his often-repeated offer to Lance Armstrong to come forward and tell all. Unfortunately, he has not.

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