CAUSE NO. 04-9557

LANCE ARMSTRONG AND TAILWIND SPORTS, INC.	§	IN THE DISTRICT COURT OF
	§	
	§	
Plaintiffs,	§	
v.	§	DALLAS COUNTY, TEXAS
	§	
	§	
SCA PROMOTIONS, INC.	§	
	§	
Defendant.	§	M-298TH JUDICIAL DISTRICT

SCA PROMOTIONS, INC.'S RESPONSE AND OBJECTION TO PLAINTIFFS' REQUEST FOR TEMPORARY INJUNCTION

Defendant SCA Promotions, Inc. ("SCA") files its Response and Objection to Plaintiffs' Request for Temporary Injunction, and in support shows as follows:

I.
SUMMARY OF THE ARGUMENT

Divested of the underlying facts and the involvement of the Lance Armstrong Plaintiff, and despite inartful pleading of the matter as an insurance contract,[1] this is nothing more than a simple claim for breach of a contract for indemnification. As in any other breach of contract case, Plaintiffs claim that they are owed funds pursuant to a written agreement. Defendant, which has not been served and has not filed an answer yet, has stated that circumstances may exist that absolve it of any obligation to pay. The resolution will be found in the course of litigation or by the trier of fact. Hence, nothing unusual is before the Court in the underlying claim.

Despite pleading an ordinary claim, Plaintiffs seek an extraordinary writ of this Court – injunctive relief requiring Defendant to maintain the full amount of the disputed claim to be held

[1] Plaintiffs' mispleading the causes of action also bar the relief sought, as addressed in Part II. B., *infra*.

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in the registry of the Court. Further, Plaintiffs seek leave to conduct extensive post-judgment discovery into Defendant's ability to pay a judgment in a case in which the answer is not even yet due. Plaintiffs' motion is supported by the scantiest of "proof" -- *unspecified* evidence of an *unidentified* person that indicated Defendant *may have* difficulty paying should a judgment render against them in the months to come. Such "evidence" clearly fails to meet any standard for the injunctive relief sought. Further, post-judgment discovery is not proper in this case, as there is insufficient evidence that Defendant would have any difficulty meeting the unlikely eventuality of adverse judgment. Plaintiffs' motion should be denied.

II.
ARGUMENT

A temporary injunction is an extraordinary remedy; it does not issue as a matter of right. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). The applicant for a temporary injunction must plead and prove three specific elements to obtain injunctive relief: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. *Id.* (citing *Walling v. Metcalfe*, 863 S.W.2d 56, 57 (Tex. 1993)). Plaintiffs fail to satisfy any of the three requisite elements.

A. Plaintiffs have failed to demonstrate the probability of an imminent, irreparable injury sufficient to justify the extraordinary remedy they seek.

1. Plaintiffs have no evidence to support their claim to an imminent, irreparable injury.

An injury is "irreparable" if the injured party cannot be adequately compensated in damages, or if the damages cannot be measured by any certain pecuniary standard. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). An injunction is not proper when the claimed injury is merely speculative; fear and apprehension are insufficient to support a temporary in junction. *Fox v. Tropical Warehouses, Inc.*, 121 S.W.3d 853, 860-61 (Tex. App. – Fort Worth

2003, reh'g overruled). Moreover, an applicant for injunctive relief has the burden to submit competent, admissible evidence in support of the request. *Letson v. Bares*, 979 S.W.2d 414, 417 (Tex. App. – Amarillo 1998, pet. denied). A court abuses its discretion if it grants a temporary injunction absent evidence clearly establishing a threat of actual, irreparable injury. *Manufactures Hanover Trust Co. v. Kingston Investors Corp.*, 819 S.W.2d 607, 611 (Tex. App.-Houston [1st Dist.] 1991, no pet.).

The only shred of evidence Plaintiffs have produced in support of their request for a temporary injunction comes in the form of a self-serving affidavit from William Stapleton, Tailwind's CEO:

> Since the time that the $5,000,000.00 in funds was deposited into the JP Morgan account, Tailwind has received information from SCA employees that SCA's financial viability will be impaired if SCA is required to pay the $5,000,000.00 as required under the [Contract].

First Amended Petition at ¶ 18 (incorporating the Stapleton affidavit by reference).

Stapleton's affidavit can most politely be described as speculative. Stapleton fails to identify which SCA employees made these alleged remarks, rendering the affidavit incompetent as support for the application for injunctive relief. Nor does the affidavit identify the Tailwind employee who allegedly heard these remarks. Without a witness to identify these mysterious SCA employees, their alleged statements about SCA's financial condition are indisputably inadmissible. *See* TEX. R. CIV. EVID. 602, 802, 803. Moreover, absent some indication that the "employees" Tailwind has been speaking with have personal knowledge of SCA's financial condition, such statements cannot support Plaintiffs' claim to an imminent, irreparable injury. *See* TEX. R. CIV. EVID. 602.

2. Plaintiffs have an adequate remedy at law.

As discussed in Part B. 1 *infra*, Plaintiffs allege statutory causes of action that do not apply to the facts of this case, and so have no right to recovery on any of their causes of action. Plaintiffs cannot be heard to argue that they lack an adequate remedy at law when they have a right to recover damages for their causes of action as pled. For the purposes of injunctive relief, there is no adequate remedy at law if damages are incapable of calculation or if the defendant is incapable of responding in damages. *Bank of Southwest v. Harlingen Nat'l Bank*, 662 S.W.2d 113, 116 (Tex.App.--Corpus Christi 1983, no writ). Here, there can be no denial that SCA has twice before paid under the Agreement sums totaling $4.5 million. Further, SCA demonstrated its financial solvency by posting the $5 million dollar payment into the registry of the Court without delay. Plaintiffs have wholly failed to demonstrate the insolvency of Defendant.

Even assuming Plaintiffs had stated a viable cause of action for breach of contract, their suit is for monetary damages. Injunctive relief is generally unavailable under these circumstances. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 211 (Tex. 2002) (explaining that "generally, a court will not enforce contractual rights by injunction, because a party can rarely establish an irreparable injury and an inadequate legal remedy when damages for breach of contract are available"); *Zuniga v. Wooster Ladder Co.*, 119 S.W.3d 856, 861 (Tex. App. – San Antonio 2003, no pet.); *Canteen Corp. v. Rep. of Texas Props., Inc.*, 773 S.W.2d 398, 401 (Tex. App. – Dallas, no writ); *Harper v. Pal*, 821 S.W.2d 456, 456-57 (Tex. App.- Corpus Christi 1992, no writ); *Lane v. Baker*, 601 S.W.2d 143, 154 (Tex. Civ. App.–Austin, 1980, no writ); *Fredrick Leyland & Co. v. Webster Brothers & Co.*, 283 S.W. 332 (Tex. Civ. App.-Dallas), writ dism'd, w.o.j, 283 S.W. 1071 (1926).[2]

[2] The United States Supreme Court has written:

Beyond the legal and factual deficiencies attendant to Plaintiffs' request for injunctive relief, the policy implications of Plaintiffs' request militates against granting a temporary injunction. Plaintiffs have only alleged monetary damages. Yet, they ask the Court to sequester SCA's funds based on nothing more than an allegation of liability. Plaintiffs' request amounts to pre-trial execution of a non-existent judgment, and threatens to reduce the temporary injunction from an extraordinary remedy to a boilerplate pleading to be used in initial filing of all breach of contract matters henceforth.

B. Plaintiffs have no right to the relief sought.

1. Plaintiffs and Defendant did not enter into an insurance contract.

The second requirement that an applicant for a temporary injunction must satisfy is the demonstration of a "probable right to the relief sought." A "probable right to the relief sought" is shown by alleging a cause of action and presenting evidence tending to sustain it. *Fox v. Tropical Warehouses, Inc.*, 121 S.W.3d 853, 857 (Tex. App. – Fort Worth 2003, no pet.); *Norlyn Enters., Inc. v. APDP, Inc.*, 95 S.W.3d 578, 583 (Tex. App. – Houston [1st Dist.] 2002, no pet.). Plaintiffs' Petition does not plead a cause of action for breach of contract. The success or failure of their suit therefore depends entirely on the applicability of the Texas Insurance Code to the claims asserted therein.

In their Petition, Plaintiffs allege violations of the Texas Insurance Code and Deceptive Trade Practices Act, neither of which applies to this case. *See* First Amended Petition at ¶¶ 6-8. Plaintiffs complain that SCA violated Contingent Prize Contract Number 31122 ("the

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> It is difficult to see why a plaintiff in any action for a personal judgment in tort or contract may not, also, apply to the chancellor for a so called injunction sequestrating his opponent's assets pending recovery and satisfaction of a judgment in such a law action. No relief of this character has been thought justified in the long history of equity jurisprudence.

DeBeers Consolidated Mines v. United States, 325 U.S. 212, 222-23 (1945).

Agreement"), calling the Agreement an "Insurance Contract." First Amended Petition at ¶ 2. It is no such thing. The Contract provides for indemnification of Disson Furst & Partners (predecessor of Tailwind Sports, Inc.). As Plaintiffs admit in their Petition, "Tailwind was obligated to pay certain performance awards to Armstrong based upon achievements and results primarily in the world's premier cycling event, the Tour de France". First Amended Petition at ¶ 4. Hence, the Contract is on for indemnification, not insurance.

An insurance policy is a contract that insures against a loss due to a *hazard or risk*, rather than a contract that calls for payment on the occurrence of a certain event. *Hochheim Prairie Farm Mut. Ins. Assoc. v. Campion*, 581 S.W.2d 254, 257 (Tex. Civ. App. – Corpus Christi 1979, writ ref'd n.r.e.); *see Paramount Fire Ins. Co. v. Aetna Cas. & Sur. Co.*, 353 S.W.2d 841, 844 (Tex. 1962); *McBroome-Bennett Plumbing, Inc. v. Villa France, Inc.*, 515 S.W.2d 32, 36 (Tex. Civ. App. – Dallas 1974, reh'g denied). Nowhere in the Agreement (attached hereto as Exhibit 1) did SCA agree to insure Plaintiffs against the possibility that a Designated Cyclist Professional would win the Tour de France cycling race. The Agreement provides as follows:

> SCA shall incur no liability unless Sponsor and the Designated Cyclist Professional have complied with the terms of this contract. Such compliance by Sponsor and the Designated Cyclist Professional is a *condition precedent* to SCA's *reimbursement* of the performance award(s) scheduled in this contract.

Contingent Prize Contract #31122. *See* Agreement at ¶ 1. SCA agreed to "reimburse" Plaintiff Tailwind on the "condition" that the Designated Cyclist Professional reach the performance incentives laid out in the Agreement. *See* Agreement at ¶ 1.

Exhibit "A" to the Agreement reiterates the point, stating "SCA Promotions, Inc. agrees to *reimburse* Sponsor for the full amount of any Performance Awards scheduled hereunder . . . ." Agreement, Exhibit "A." Thus, SCA agreed—as the Agreement expressly provides—to reimburse Tailwind in the event that Tailwind became obligated to pay a Designated Cyclist

Professional the performance incentives listed in Exhibit "A." Nowhere did SCA agree to insure Tailwind against the possibility that the Designated Cyclist Professional would reach those incentives.

Hence, Plaintiff Armstrong alleges that he is entitled to relief because SCA failed—in bad faith, no less—to pay on an insurance policy. That insurance policy ostensibly protects Armstrong from the *risk* or *hazard* that Armstrong might be paid up to $9,500,000 for winning six consecutive Tour de France races. These allegations are, of course, nonsensical.

Clearly, winning the Tour de France was not a *risk* or *hazard* to Armstrong. Just as clearly, his cycling team cannot be said to have suffered a hazard when Armstrong triumphed. They contracted with SCA for "reimbursement" should the team become obligated to pay a Designated Cyclist Professional certain performance incentives. Agreement at ¶ 1. They did not, however, take out an insurance policy to protect them from the eventuality that Armstrong might win the Tour de France.

The distinction between reimbursement and insurance is crucial to determining whether Plaintiffs are entitled to injunctive relief. Plaintiffs base their right to recovery exclusively on alleged violations of the Texas Insurance Code, which does not apply to reimbursement contracts. *See, e.g., Hochheim Prairie Farm Mut. Ins. Assoc. v. Campion*, 581 S.W.2d 254, 257 (Tex. Civ. App. – Corpus Christi 1979, writ ref's n.r.e.); *see also Hardware Dealers Mut. Ins. Co. v. Berglund*, 393 S.W.2d 309, 315 (Tex. 1965) ("Contracting parties generally select a judicially construed clause with the intention of adopting the meaning which the courts have given to it."). Because the Texas Insurance Code does not govern the Agreement, and because Plaintiffs' DTPA claim ties-in to the claims asserted under the Texas Insurance Code, Plaintiffs

have *no* right to the relief sought (much less a *probable* right of recovery). Under these circumstances, injunctive relief is patently inappropriate.

2. Plaintiffs' DTPA claims are barred as a matter of law.

A plaintiff can maintain a Deceptive Trade Practices Act suit based on conduct that violates article 21.21 of the Insurance Code. TEX. BUS & COM. CODE § 17.50(a)(4). Otherwise, none of Plaintiffs' claims are actionable under the DTPA. As discussed above, Plaintiffs' reliance on the Insurance Code is entirely misplaced, as the Agreement is not an insurance policy. *Hochheim Prairie Farm Mut. Ins. Assoc. v. Campion*, 581 S.W.2d 254, 257 (Tex. Civ. App. – Corpus Christi 1979, writ ref'd n.r.e.); *see Paramount Fire Ins. Co. v. Aetna Cas. & Sur. Co.*, 353 S.W.2d 841, 844 (Tex. 1962); *McBroome-Bennett Plumbing, Inc. v. Villa France, Inc.*, 515 S.W.2d 32, 36 (Tex. Civ. App. – Dallas 1974, reh'g denied). For these reasons, Plaintiffs' DTPA claims are barred as a matter of law.

C. Plaintiff Armstrong has no cause of action against Defendants because he is not a third-party beneficiary of the Agreement.

Plaintiffs have not pled a breach of contract cause of action against SCA. Yet, oddly, Plaintiffs maintain that Armstrong is an "indispensable party" to this litigation because he is a "third-party beneficiary" of the Agreement. First Amended Petition at ¶ 4. Without a claim based on breach of contract, Armstrong lacks standing to sue to enforce the Agreement, and his claims should be dismissed with prejudice. *See MCI Telecom. Corp. v. Texas Utilities Elec. Co.*, 995 S.W.2d 647, 651 (Tex. 1999). However, should the Court conclude that Armstrong has derived standing to sue from some other source, his claims nevertheless should be dismissed because he is not a third-party beneficiary of the Agreement.

"The fact that a person might receive an incidental benefit from a contract to which he is not a party does not give that person a right of action to enforce the contract." *Id.* A third party

may recover on a contract made between other parties "only if the parties *intended* to secure some benefit to that third party, and only if the contracting parties entered into the contract *directly* for the third party's benefit." *Id.* (emphasis added). In determining whether a third party can enforce a contract, the intention of the contracting parties is controlling. *Id.* A court will not create a third party beneficiary contract by implication. *Id.* The intent to contract or confer a direct benefit to a third party "must be *clearly and fully spelled out* or enforcement by the third party *must* be denied. *Id.* (emphasis added). Consequently, a presumption exists that the parties contracted solely for themselves unless it "clearly appears" that they intended for a third party to benefit from the contract. *Id.* (quoting *Corpus Christi Bank & Trust v. Smith*, 525 S.W.2d 501, 503-04 (Tex. 1975) (emphasis added).

In *Hunt v. Leuw, Cather & Co.*, the Dallas Court of Appeals held that the agreement at issue did not create any third party beneficiaries. 2002 WL 1767220, at *3 (Tex. App. – Dallas 2002, no pet.) (not designated for publication). That agreement provided in relevant part: "No provision of this contract shall be for the benefit of any party other than [plaintiff] and [defendant]." *Id.* at *3. Interpreting this language, the court concluded: "[t]he contracting parties explicitly stated that the Award/Contract was not made for the benefit of any party other than the signatories." *Id.* at *4.

Here, the first sentence of the Agreement reads as follows; "This contract is for the *sole benefit* of the Sponsor and SCA Promotions, Inc." Agreement at ¶ 1 (emphasis added). As in *Hunt*, Tailwind and SCA clearly expressed an intent *not* to create a third-party beneficiary. No other language in the Agreement provides for any direct benefit to any non-signatory, much less confers third-party beneficiary status on Armstrong.

Nevertheless, Plaintiffs contend that Armstrong is a third-party beneficiary of the Agreement, based solely on the allegation that Armstrong is the Designated Cyclist Professional named in Exhibit "A" to the Agreement. First Amended Petition at ¶ 4. This designation, standing alone, is insufficient to overcome the presumption against creation of third-party beneficiaries. *MCI Telecom.*, 995 S.W.2d at 652 (reasoning that plaintiff was not a third party beneficiary because there was no "clear indication" that defendant intended to confer a direct benefit to plaintiff). Because it does not "clearly appear" that SCA and Tailwind intended to create a third-party beneficiary, Armstrong has no standing to sue to enforce the parties' agreement. *Id.* at 651 (explaining that, because plaintiff was not a third party beneficiary, it "cannot maintain an action to enforce the contract").

D. Plaintiffs Motion to Compel Should be Denied.

1. Plaintiffs have no right to conduct discovery to support their request for a temporary injunction.

Any applicant for injunctive relief must show that imminent, irreparable harm will likely result from the failure to enter an injunction. The injunction is an extraordinary remedy because it has the effect of barring certain conduct prior to a judicial determination that the conduct enjoined is wrongful. Thus, the burden on the applicant is onerous, requiring evidence to support the claim of imminent, irreparable harm.

Here, Plaintiffs base their request for injunctive relief on nothing more than the self-serving affidavit of Tailwind's CEO, Bill Stapleton, which claims Tailwind heard statements from unidentified SCA employees that "SCA's financial viability will be impaired if SCA is required to pay the $5,000,000 . . . ." First Amended Petition ¶ 5. Setting aside the fact that—even if true—the purported statements are rank hearsay, Plaintiffs' failure to identify these

mysterious "employees" leaves them with absolutely no competent evidence to support their claim for injunctive relief.

Perhaps recognizing as much, Plaintiffs move this Court to compel production of SCA's financial records in hopes of bolstering their baseless claims regarding SCA's financial condition. Plaintiffs' Motion puts the cart squarely before the horse. An applicant for injunctive relief must have evidence of imminent, irreparable harm before such an extraordinary remedy can be requested in good faith. By claiming that harm is imminent and irreparable, and then seeking to compel discovery to support their unsubstantiated allegations, Plaintiffs demonstrate that their request for injunctive relief is groundless. That is, Plaintiffs have no evidence that SCA's financial condition would be in any way impaired if forced to pay a $5,000,000 judgment.

Plaintiffs cite no authority—and SCA has found none—for the proposition that Plaintiffs are entitled to expedited discovery to support their request for injunctive relief. Thus, Plaintiffs' request amounts to nothing more than an impermissible fishing expedition into SCA's financial records. This litigation is bound for arbitration, where Plaintiffs will have ample opportunity to seek discovery of SCA's financial records. Indeed, subject to certain objections, SCA plans to produce many of the documents Plaintiffs seek. However, requesting that those records be produced on an expedited basis so that Plaintiffs can trump up support for a groundless request for injunctive relief makes a mockery of the injunction as an equitable remedy. For these reasons, Plaintiffs' Motion to Compel should be denied.

2. The Court should refrain from entering discovery orders, as this case is controlled by a contractual arbitration agreement.

Plaintiffs and SCA agree that the Agreement mandates binding arbitration to resolve this dispute. Agreement at ¶ 9. As a matter of judicial economy, the Court would be well served to refrain from ordering discovery in this case. The parties will have ample time to seek discovery

of each other's documents prior to arbitration. As for compelling expedited discovery of SCA's sensitive financial information, Plaintiffs have wholly failed to demonstrate a right to such discovery. Innuendo, supposition, and hearsay are insufficient support for injunctive relief. For this reason, SCA respectfully requests the Court deny Plaintiffs' Motion to Compel.

3. Plaintiffs' request is not timely.

Should the Court decide that Plaintiffs are indeed entitled to discovery of SCA's financial information as requested by Plaintiffs, SCA requests that such discovery be conducted in accordance with the Texas Rules of Civil Procedure. Plaintiffs served their First Request for Production of documents on September 30, 2004. However, Defendant has not yet even been served in this matter. Pursuant to Tex. R. Civ. P. 196.2, a response to written discovery served prior to the due date of the Answer must be served within 50 days. Because the request was made prior to SCA's deadline to file an Answer, SCA is entitled to 50 days in which to respond to Plaintiffs' request.

III.
CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED SCA Promotions, Inc. respectfully requests that the Court deny Plaintiffs' Request for Temporary Injunction, and requests any additional and further relief to which it may be justly entitled.

Respectfully submitted,

Mike P. Lynn, P.C.
State Bar No. 12738500
Jeff M. Tillotson, P.C.
State Bar No. 20039200
Cody L. Towns
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LYNN, TILLOTSON & PINKER, L.L.P.
750 N. St. Paul Street, Suite 1400
Dallas, Texas 75201
(214) 981-3800 Telephone
(214) 981-3839 Facsimile

ATTORNEYS FOR DEFENDANT SCA PROMOTIONS, INC.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing SCA Promotions, Inc.'s Response to Plaintiffs' Request for Temporary Injunction was delivered to the following in accordance with the Texas Rules of Civil Procedure on this the ___ of October, 2004:

VIA HAND-DELIVERY
Timothy J. Herman
John H. Hempfling, II
HERMAN, HOWRY & BREEN, L.L.P.
1900 Pearl Street
Austin, Texas 78705-5408

Michael P. Lynn, P.C.

SCA PROMOTIONS, INC.
CONTINGENT PRIZE CONTRACT #31122

SPONSOR NAME:	Disson Furst & Partners
INTERMEDIARY:	ESIX Entertainment and Sports
INTERMEDIARY ADDRESS:	1990 Powers Ferry Road Suite #375 Atlanta, GA 30339-5565
TYPE OF PROMOTION:	Cyclist Incentive Bonus Program
DATE(S) OF PROMOTION:	July 1, 2001 – August 31, 2004
CONTRACT FEE:	$428,000.

1. This contract is issued for the sole benefit of the Sponsor by SCA Promotions, Inc. ("SCA"), 8300 Douglas Avenue, Suite 525, Dallas, Texas 75225. SCA's liability is limited to the actual cost to Sponsor of the performance award(s) scheduled under this contract ("Performance Award(s)") and payable to the Designated Cyclist Professional as described in the attached Exhibit A. SCA shall incur no liability unless Sponsor and the Designated Cyclist Professional have complied with the terms of this contract. Such compliance by Sponsor and the Designated Cyclist Professional is a condition precedent to SCA's reimbursement of the performance award(s) scheduled in this contract.
2. SCA has no liability hereunder unless the Contract Fee is received prior to commencement of the first scheduled event of Sponsor's PGA Cyclist Incentive Bonus Program.
3. SCA is not a party to Sponsor's contract with the Designated Cyclist Professional nor is SCA involved in the conduct of Sponsor's PGA Cyclist Incentive Bonus Program. Sponsor shall indemnify SCA for any claims against SCA initiated as a result of Sponsor's implementation or conduct of said PGA Cyclist Incentive Bonus Program.
4. Exhibit A – Terms & Conditions attached hereto is an integral part of this contract.
5. Sponsor is responsible for any performance awards payable under Sponsor's contract with the Designated Cyclist Professional which are not in compliance with or payable under the terms of this contract.
6. If the actual conditions of the Promotion differ in any way from those represented by Sponsor to SCA, this contract is null and void unless such changes have been approved in writing by SCA prior to commencement of the promotion.
7. SCA is not a party to or involved in the conduct of the Promotion and Sponsor shall indemnify SCA for any claims initiated as a result of Sponsor's implementation or conduct of the Promotion.
8. All copyright, trademark and other intellectual property rights currently owned by the Sponsor or SCA shall remain the property of the respective owner, with each party to this contract giving due respect and notice to such ownership, and each party to the contract retaining all legal rights and enforcement powers inherent in the ownership of said intellectual property.
9. Sponsor agrees that any dispute arising under this contract shall be resolved by binding arbitration pursuant to the Texas General Arbitration Act. The site of such arbitration shall be Dallas, Texas.
10. This contract, including exhibits and attachments, represents the entire final agreement between Sponsor and SCA, and supercedes any prior agreement, oral or written. Any modification hereto must be in writing and signed by the parties.
11. This contract does not cover any loss, damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to: a) the calculation comparison, differentiation, sequencing, or processing of data involving the date change to the year 2000, or any other date change, including leap-year calculations, by any computer system, hardware, program or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of Sponsor or not; or b) any change, alteration or modification involving the date change to the year 2000 or any other date change, including leap-year calculations, to any such computer system, hardware, program or software or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of Sponsor or not. This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

SCA PROMOTIONS, INC.

BY: _____

TITLE: President

DISSON FURST & PARTNERS

BY: _____ (Sponsor Representative)

TITLE: CEO

DATE: Jan. 14, 2001

Date Issued: January 9, 2001 at Dallas, Texas
Sponsor Contact: Kelly Price
SCA Contact: Todd Overton
SCA Tel: (214) 840-3700 Fax (214) 860-3742

R1/00

EXHIBIT
1

2

Contract #31122

EXHIBIT A
TERMS & CONDITIONS

Contest Form 998 pg

SCA Promotions, Inc. agrees to reimburse Sponsor for the full amount of any Performance Awards scheduled hereunder and awarded to the Designated Cyclist Professional pursuant to this agreement. Designated Cyclist Professionals are eligible to receive Performance Awards if the conditions of the events scheduled herein and Sponsor's Cyclist Incentive Bonus Program comply with the terms and conditions of this contract.

1. SPONSOR'S PRECONTRACT DUTIES:
   a. Cover page and Exhibit A - Terms & Conditions (page 2) signed and returned to SCA; and
   b. Payment of contract fee to SCA.

2. SPONSOR'S OBLIGATIONS AND SCA's REQUIREMENTS FOR REIMBURSEMENT OF PERFORMANCE AWARDS:
   a. A Performance Award for the Event Category set forth in paragraph 3 below will be payable if the Designated Cyclist meets the objective with respect to such Performance Award as provided in paragraph 3 below.
   b. SCA indemnifies Sponsor in respect of Sponsor's liability to award such Performance Awards to the Designated Cyclist Professional to the extent provided for in this contract.
   c. It is understood and agreed that SCA's liability for reimbursement of Performance Awards is limited to the events and amounts scheduled in paragraph 3 below. Performance Award(s) for additional events may be purchased, subject to prior agreement.
   d. The Contract Fee is refundable to Sponsor only upon written notice of cancellation received by SCA prior to commencement of the first event scheduled hereunder.
   e. In the event the Designated Cyclist Professional wins any Performance Award scheduled hereunder, SCA agrees to fully reimburse Sponsor for such Performance Award within thirty business days following the end of the event(s) for which the award is won.

3. SCHEDULE OF REIMBURSABLE PERFORMANCE AWARDS:
   DESIGNATED CYCLIST PROFESSIONAL: Lance Armstrong

# of Events	Event Category	Award
2001 & 2002 Tour De France	1st Place Win	$1,500,000.
2001, 2002 & 2003 Tour De France	1st Place Win	$3,000,000.
2001, 2002, 2003 & 2004 Tour De France	1st Place Win	$5,000,000.
Maximum Aggregate:		$9,500,000.

I HAVE READ THE TERMS & CONDITIONS OF THIS CONTRACT AND AGREE TO ABIDE BY EACH ITEM.

SIGNATURE _____ TITLE CEO
(Sponsor Representative)

DATE Jan. 14, 2001