

**AFFIDAVIT OF SPECIAL AGENT JEFF NOVITZKY IN SUPPORT OF  
REQUEST FOR SEARCH WARRANTS**

I, Jeff Novitzky, being first duly sworn, hereby depose and state as follows:

**I. INTRODUCTION**

1. This affidavit is submitted in support of a request for the issuance of five search warrants for locations under the authority and control of Victor Conte, Jr. The five locations to be searched are: (1) Conte's business location, containing Conte's businesses Balco Laboratories and SNAC System, Inc., located at 1520 Gilbreth Road in Burlingame, California; (2) Conte's residence, located at 716 West 27th Avenue, San Mateo, California; (3) Conte's private mailbox identified as 345 California Drive Box #22, Burlingame, California; (4) a second private mailbox used by Conte identified as 345 California Drive Box #34, Burlingame, California; and (5) a third private mailbox used by Conte identified as 1336 El Camino Real, Box #137, Millbrae, California.

2. This request for authorization to conduct searches at the above-referenced locations is based upon the development of facts which provide probable cause to believe that Victor Conte, Jr. and others are involved in a nationwide scheme to knowingly illegally distribute athletic performance-enhancing drugs, including anabolic steroids, a federally controlled substance, to numerous elite professional athletes at a local, national and international level. Conte's knowing involvement in a scheme to distribute federally controlled substances constitutes a violation of 21 U.S.C. § 846. There is further probable cause to believe that Conte is laundering the proceeds of his steroid distribution activities through his personal bank account, in violation of 18 U.S.C. § 1956. In addition to establishing probable cause to believe that Conte is engaged in the above-referenced criminal activities, the affidavit establishes probable cause to believe that evidence of the unlawful controlled substances distribution and money laundering activity will be found at the five locations used by Conte in executing the scheme.

## II. AFFIANT'S BACKGROUND

3. I am a Special Agent with the Internal Revenue Service, Criminal Investigation ("IRS-CI"), and have been so employed since 1993. During my 10 years with IRS-CI, I have conducted and/or participated in hundreds of criminal investigations involving income tax violations, money laundering violations, currency violations and other federal financial crimes. Additionally I have extensive experience in investigations involving illegal drug distribution organizations. I have participated in the execution of numerous search warrants and have written affidavits in support of search warrants on 26 different locations. I have also written affidavits for seizure warrants on at least 11 assets.

## III. FACTS IN SUPPORT OF PROBABLE CAUSE

4. The investigation in this case began in August of 2002 based upon the development of information that numerous "world-class" professional athletes were, on an on-going basis, illegally receiving anabolic steroids and other athletic performance-enhancing drugs and having their steroid intake monitored by persons associated with Balco Laboratories Inc., a blood testing laboratory located at 1520 Gilbreth Road in Burlingame, California. This information included allegations that Victor Conte Jr., the owner and CEO of Balco Laboratories Inc., is involved in illegal anabolic steroid distribution and administration to several well known professional athletes.

5. Over the past year, the investigation has developed a number of facts indicating that Conte is possessing with intent to distribute, and distributing, anabolic steroids in violation of federal law.

6. Anabolic steroids are a Schedule III controlled substance. Under federal law, the distribution of Schedule III controlled substances is illegal except when such drugs are dispensed by a licensed medical doctor pursuant to a professional medical practice. 21 U.S.C. §§ 802 and 841. 21 U.S.C. Section 802(41)(A) defines "anabolic steroid" as "any drug or hormonal substance, chemically and pharmacologically related

to testosterone (other than estrogens, progestins and corticosteroids) that promote muscle growth . . .” Section 802(41)(A) includes a list of 27 specific substances included within the definition, and concludes with a provision that broadly includes “any salt, ester, or isomer of a drug or substance described or listed in this paragraph if that salt, ester, or isomer promotes muscle growth.” It is a violation of federal narcotics law under Title 21 U.S.C. § 841(b)(1)(D) to possess with intent to distribute and distribute anabolic steroids. Hereafter in this affidavit, the term “steroids” refers to anabolic steroids which fall under the statutory definition provided in Section 802(41)(A).

7. In addition to the evidence of steroid distribution, as described below, the investigation has developed a number of facts indicating that Conte and others at Balco Laboratories Inc. are engaged in a scheme to defraud, specifically by marketing a scheme to distribute and administer drugs that mask the presence of steroids in the blood and urine of athletes, and fraudulently enable these athletes to take illegal performance-enhancing substances prior to events and then pass drug tests administered by their sports' governing bodies and testing agencies. As described in more detail later in this affidavit, Conte and others appear to have used the drug epitestosterone for this purpose, and further appear to have continued working on the development of substances in furtherance of this goal. As also detailed later in this affidavit, documents have been gathered which demonstrate that Conte and others caused the mailing of epitestosterone on several occasions to the Balco Laboratories location at 1520 Gilbreth Road in Burlingame, California.

8. Finally, considerable evidence has been developed indicating that Conte is involved in laundering the proceeds of his illegal activities by specifically instructing athletes to place money into his personal bank account instead of his regular business bank account in an apparent effort to conceal those funds by separating them from his regular business income. This evidence supports the conclusion that Conte knowingly

separates money earned from his legal supplement distribution and blood testing businesses from money earned from his steroid distribution and drug masking schemes by placing the illegal funds into his personal account and the legal funds into his business account.

**A. Balco Laboratories, Inc. Background**

9. I have received information from the State of California, Department of Health Services that Balco Laboratories Inc., located at 1520 Gilbreth Road in Burlingame, California, is a registered laboratory testing facility, authorized by the State of California to conduct routine chemistry, toxicology and trace metal testing of blood and urine. According to State Department of Health Services representative Bea O'Keefe, Victor Conte Jr. is the registered owner of the facility and Dr. Brian D. Halevie-Goldman is the registered medical director of the laboratory. I ran an Internet search through the use of "Google," an Internet search engine, and discovered Dr. Halevie-Goldman's name listed on a website for a private medical clinic called the "Amen Clinic" in Fairfield, California. According to the "Amen Clinic" website, the "Amen Clinic" is a private medical clinic that specializes in innovative diagnosis and treatment for a wide variety of neuropsychiatric, behavioral and learning problems for children, teenagers and adults. The "Amen Clinic" website further stated that Dr. Halevie-Goldman is a psychiatrist specializing in child and adolescent psychopharmacology, a specialty which does not appear to be consistent with what I have observed to be Balco Laboratories' clientele of professional athletes. Fairfield is located approximately 60 miles from Burlingame.

10. On January 29, 2003, I spoke with Jaime Nazario, an employee of the Drug Enforcement Administration (DEA) in San Jose, California. Nazario ran the names of Victor Conte Jr. and Dr. Brian Halevie-Goldman through indices of authorized and registered controlled substance distributors that the DEA maintains. Nazario informed me that neither Conte nor Dr. Halevie-Goldman are currently authorized or registered

through the DEA to distribute or prescribe controlled substances. Nazario further informed me that it is illegal for a doctor or anyone else to distribute or prescribe a controlled substance without authorization and registration with the DEA.

11. Through examinations of trash and personal observations outside of the Balco Laboratories business location, I have learned that Conte also operates a separate business out of 1520 Gilbreth Road called SNAC System Incorporated. A side entry glass door to the premises of Balco Laboratories is marked "SNAC" below the number "898" on the door. This door faces a separate street, Mahler, which runs along the south side of Balco Laboratories. Through surveillance, I have personally looked into Balco Laboratories through glass windows from public-access areas, and I can see that the SNAC office space is within the same office space as the Balco Laboratories office space. SNAC has its own web-site, and I have reviewed that web-site for information regarding SNAC System Inc. As advertised on its web-site, SNAC System Inc., "is a revolutionary mineral and trace element supplementation program designed to maximize absorption and utilization." The web-site professes that "rigorous exercise and stress result in significant body losses of specific minerals and trace elements," and that SNAC System products can help replenish those minerals and trace elements and help individuals achieve better performance "in the workplace, as well as in the gym and the athletic field." In reviewing the SNAC System, Inc. website and examining the discarded trash from Balco Laboratories and SNAC System Inc., I have learned that SNAC System sells and markets several legal nutritional supplements.

#### **B. Internet Information Regarding Balco Laboratories**

12. In the course of the investigation, I have identified a web-site with the Internet address of "Balcolab.com" which contains information and serves as a "home-page" for Conte's business, Balco Laboratories Inc., in Burlingame, California. The

web-site states that Balco is in the business of "High tech nutritional assessment for Olympic athletes, weekend warriors and even business executives." The site goes on to explain that through the use of a machine called the ICP (inductively coupled plasma) spectrometer, selected essential minerals, trace elements and toxic metals in a person's blood and urine can be analyzed and deficiencies can be determined. The web-site further describes that based upon those deficiencies, supplements can be recommended to those people, and the intake of these supplements will increase athletic performance.

13. The site contains a link to "Balco's Database of World Class Olympic and Professional Athletes". In this link, approximately fifty (50) professional athletes are claimed to be Balco Labs clients, including athletes from various professional sports ranging from the National Football League, National Basketball Association, as well as athletes competing in professional bodybuilding, professional tennis, swimming and track and field. The site also includes an e-mail contact with Balco at the e-mail address of [conte@balcolab.com](mailto:conte@balcolab.com).

#### C. Victor Conte Newsgroup Postings

14. Based upon an Internet query of the e-mail address [conte@balcolab.com](mailto:conte@balcolab.com), I located several postings with a return e-mail address of [conte@balcolab.com](mailto:conte@balcolab.com) to a "Google" Internet newsgroup entitled "misc.fitness.weights." These postings were made over several years, from 1999 through 2003. A review of the contents of the newsgroup "misc.fitness.weights" revealed that the majority of postings involve independent topics of weightlifting, bodybuilding, nutrition and steroids. In each of the several dozen postings that I located from [conte@balcolab.com](mailto:conte@balcolab.com), the author of the text of each message is listed as "Victor", "Victor Conte" or "VC," supporting the conclusion that Victor Conte is responsible for the postings. In these postings, the person appearing to be Conte writes on several topics which corroborate much of the information developed in this investigation, including Conte and Balco's associations with professional athletes

and Conte's involvement with athletic performance-enhancing drugs. Conte's apparent postings include references to several elite professional athletes that he claims use his services, although those services are not specifically identified. Among these athletes are track and field record holders, an Olympic Gold medal winner, Major League Baseball players, National Football League Players and numerous professional bodybuilders. The person appearing to be Conte also makes several postings in which he knowledgeably discusses anabolic steroids on the Google Internet newsgroup entitled "misc.fitness.weights." These postings are summarized as follows:

March 19, 2000

Dear Will: I would appreciate your feedback regarding the cost issue. As you know, oxandrolone<sup>1</sup> comes in 2.5 mg tablets, which cost somewhere between \$1 and \$4.80 (by prescription) per tablet. That means taking 150 mg per day (60 tablets) would cost somewhere between \$60 and \$288 per day. Who do you know that is willing to spend \$1,800 to \$8,640 per month on taking oxandrolone at 150 mg per day! Is it available for something less than \$1.00 per tablet? Maybe I'm missing something.

March 18, 2000

Dear Mr. Roberts: What is the basis of your statement "oxandrolone at a sufficiently high dose, e.g. 150 mg/day, increases aggression pretty comparably to most stuff and gives reasonable but not outstanding mass gains?" Where is the published science to support this statement? There are 122 published oxandrolone studies to be found using medline.

March 13, 1999

Dear Ed: Are you aware that your baseline testosterone level of 256 ng/dL is a deficient level of total testosterone. The normal range used by Quest Diagnostics Laboratories (one of the most credible labs in the US for measuring testosterone levels) is 260 ng/dL to 1,000 ng/dL. This is a 2 standard deviation range and represents the center 95 out of 100 healthy males.

#### **D. Media Articles**

15. I queried media outlet archives through the Internet in order to gather further background evidence on Conte and Balco Labs. I found several articles relating

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<sup>1</sup> Oxandrolone is an oral anabolic steroid and classified as a Schedule III controlled substance under Title 21 U.S.C. § 802

to Victor Conte's appearance on behalf of C.J. Hunter, a world class shot put thrower who was suspended in a highly-publicized incident in 2000 for a positive steroid test shortly before the 2000 Summer Olympics in Sydney, Australia. These articles stated that Hunter tested positive for the performance-enhancing drug nandrolone, an anabolic steroid. According to several media articles located on the Internet, in a news conference that took place in Australia, Hunter introduced Victor Conte Jr. as his nutritionist. During this news conference, notwithstanding the results of the drug test, Conte expressly denied that Hunter was taking an anabolic steroid, stating, "CJ was not using the anabolic steroid nandrolone. The positive test was the result of an iron supplement he was taking."

16. I also found an interview of Conte published in a past issue of "Testosterone" magazine, a publication which I have reviewed and found to deal primarily with steroids and steroid issues. In the article, published on November 13, 1998, Conte is asked whether or not he recommends growth hormone supplementation for older athletes. I have learned in my investigation that human growth hormone is often used by bodybuilders and athletes in conjunction with anabolic steroids in order to gain muscle mass and strength. The distribution of human growth hormone for non-medical purposes is itself a separate federal criminal violation pursuant to Title 21, U.S.C. § 333(e)(1). As detailed later in this affidavit, I have found an abundance of evidence in the discarded trash of Balco Laboratories indicating the distribution of human growth hormone. Conte responded to the growth hormone question by stating, "I don't condone the use of anabolic steroids or growth hormone. However, I know a number of athletes who use growth hormone, and most of them are reporting tremendous benefits. A few NFL players who have been caught using anabolic steroids have switched to using growth hormone by itself. Some of the older players in their mid-30's are also using growth hormone."



### E. Examination of Discarded Trash

17. Since September 3, 2002, I have performed, on approximately a weekly basis, an examination of the discarded garbage of Balco Laboratories Inc., located at 1520 Gilbreth Road in Burlingame, California. I have regularly retrieved the discarded garbage from a public-access parking lot where it is placed for pickup. Over the past year, I have retrieved numerous items from the discarded garbage of Balco Labs that indicate Conte's and Balco Laboratories' involvement in the illegal distribution of anabolic steroids and other athletic performance-enhancing substances to athletes. Following is a partial listing of items retrieved from the discarded trash of Balco Laboratories at 1520 Gilbreth Road in Burlingame, California, along with the date the evidence was retrieved:

- A torn, empty box of multiple vials of Serostin, a human growth hormone (9/3/02);
- A torn, empty box of 200 mg vial of testosterone<sup>2</sup> (9/10/02);
- An empty pill container of Oxandrin<sup>3</sup> (11/18/02);
- At least eighty-four (84) empty, one-use syringe wrappers in various sizes (9/3/02 through 8/10/03);
- A Federal Express International Air Waybill detailing a shipment of "prescription drug personal medication" from a pharmacy in Ontario, Canada to Victor Conte at 345 California Drive in Burlingame, CA. The total weight of the package is listed as 3 pounds with a declared value of \$431.75. The shipment is dated 4/22/2003 (5/5/03);
- A November/December 2002 issue of "Anabolic Insider", an underground steroid publication (12/16/02);
- Various small envelopes and letters from an elite track and field athlete, who is currently the United States champion in his event, including the following:

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<sup>2</sup> Testosterone is an anabolic steroid and classified as a Schedule III controlled substance as listed in Title 21, U.S.C. § 802.

<sup>3</sup> Oxandrin, a brand name of oxandrolone, is an anabolic steroid and classified as a Schedule III controlled substance as listed in Title 21, U.S.C. § 802.

- Vic, here is a check for the next cycl<sup>4</sup> (sic).  
I need it by the end of the week.  
  
**REDACTED<sup>5</sup>** (12/16/02)
- Vic, here is \$350, \$300 for next +  
\$50 for what I owed for last.  
Thanx, **REDACTED** (2/3/03)
- Two (2) personal notes from an elite track and field athlete and world record holder. The notes read:
  - Victor,  
Thank you for the help at nationals!  
**REDACTED**  
P.S.  
A bonus from "Team **REDACTED**" to  
"Team Balco" (3/24/03).
  - Victor...Jim...  
Just wanted to let you know I appreciate  
everything that you did. All that I have accomplished this  
season would not have been possible without your  
support. Thanks!! **REDACTED** (3/24/03).
- A VWR International packing list indicating a delivery of one 100-count package of 23-gauge syringes and one 100-count package of 25-gauge syringes to Balco Laboratories (10/14/02).
- A VWR International packing list indicating a delivery of one 100-count package of 25-gauge syringes and one 200-count package of "low dose insulin syringes" (7/28/03).
- A yellow post-it note listing human growth hormones Nutropin AQ and Somatropin, both substances with steroid-like strength enhancing features (4/28/03).
- Four (4) empty "pill-sheets" of "Omifin", a prescription clomid or anti-estrogen drug typically taken by steroid users after a steroid cycle to improve their recovery of natural testosterone production (12/16/02 through 1/13/03).
- One empty box of Epogen, a prescription erythropoietin that stimulates the production of oxygen carrying red blood cells and is commonly used by

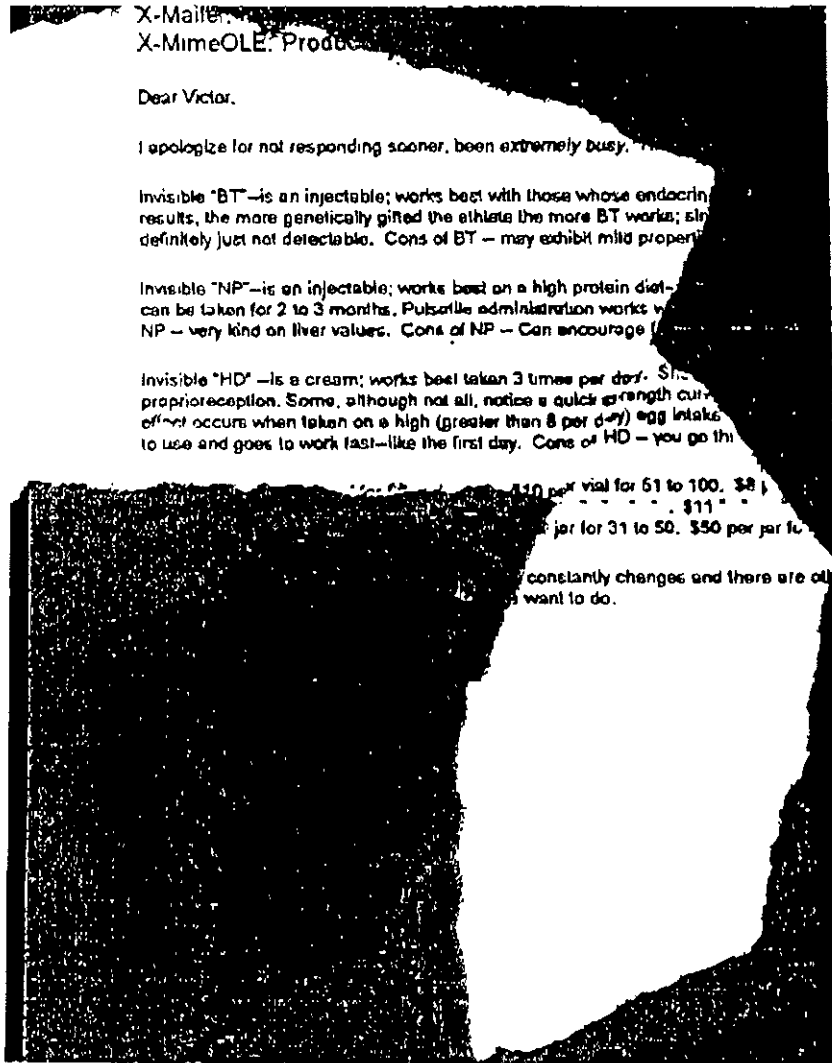
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<sup>4</sup> A cycle is a common phrase used for the administration of anabolic steroids because the users typically cycle their use on an on and off basis so that their bodies will not shut down the natural production of testosterone.

<sup>5</sup> The government has redacted identifying information for certain individuals in this affidavit. The government stands ready to provide more detailed information to the Court if the Court requires more information regarding these individuals, including copies of the actual documents referenced.

endurance athletes to increase stamina and athletic performance. The box once contained ten (10) 1.0 ml single use vials (1/13/03).

- An empty and shredded box of Procrit, a prescription erythropoietin used to increase red blood cell production and commonly used by endurance athletes to achieve better fitness. The box once contained twenty-five (25) 1 ml vials (3/31/03).
- Two (2) empty pills sheets of prescription diuretics, which are commonly used by bodybuilders to rid themselves of excess water or fluids to make their muscles stand out. It is also used to mask the presence of steroids in drug tests (1/13/03).
- Three (3) torn versions of a letter addressed to IAAF (International Association of Athletics Federations) and the USADA (United States Anti-Doping Agency) testing personnel, disclosing allegations of steroid distribution by a renowned track and field coach to several elite track and field athletes. The letter alleges that the coach obtains a specific steroid from Mexico and specifically strategizes the scheduling of events and testing to avoid detection of the steroid use.
- Portion of an e-mail addressed to "Victor" that discusses characteristics of athletic performance enhancing drugs, similar to anabolic steroids, as well as their prices (9/16/02). A picture of this document appears below:



#### F. Examination of Balco's Medical Waste

18. Through an analysis of subpoenaed bank records relating to Balco Laboratories, I identified Stericycle, a medical waste transport company used by Balco. I found several checks in Balco's bank account made payable to Stericycle. Stericycle maintains a regional office in San Leandro, California. A subpoena was issued to Stericycle for the medical waste picked up from Balco Labs. To date, seven separate medical waste pick-ups from Balco have been examined. Following is a partial list of the items retrieved, with dates, from the discarded medical waste of Balco Labs:

<u>Date</u>	<u>Items</u>
12/18/02	<ul style="list-style-type: none"> <li>● Eight (8) used syringes</li> <li>● One (1) vial of Epogen (prescription erythropoietin)</li> </ul>
1/13/03	<ul style="list-style-type: none"> <li>● Eleven (11) used syringes</li> <li>● One (1) vial of testosterone (anabolic steroid)</li> </ul>
3/10/03	<ul style="list-style-type: none"> <li>● Eight (8) used syringes</li> <li>● One (1) vial of unknown substance w/label removed</li> </ul>
4/7/03	<ul style="list-style-type: none"> <li>● Seven (7) used syringes</li> <li>● One (1) small glass vial with label removed.</li> </ul>
5/5/03	<ul style="list-style-type: none"> <li>● Eleven (11) used syringes</li> <li>● Twenty-Seven (27) vials of Nutropin, a prescription human growth hormone with dates ranging as far back as 1994 and 1995.</li> <li>● One (1) vial of Genotropin, a prescription human growth hormone.</li> <li>● One (1) clear vial with no label.</li> </ul>
6/2/03	<ul style="list-style-type: none"> <li>● Twelve (12) used syringes.</li> <li>● Twenty-two (22) empty one-use syringe wrappers.</li> <li>● One (1) vial of Epocrit, a prescription erythropoietin.</li> </ul>
7/2/03	<ul style="list-style-type: none"> <li>● Eight (8) used syringes.</li> <li>● Two (2) vials with labels removed from them.</li> </ul>

19. The used syringes and vials that were retrieved on December 18, 2002, and January 13, 2003, were analyzed by the San Mateo County Sheriff's Office Forensic Laboratory for their content. I have reviewed laboratory reports stating that the laboratory was able to extract sufficient fluid from two syringes and one vial to evaluate the material. One syringe and the vial tested positive for the presence of testosterone, an anabolic steroid. The other syringe tested positive for the presence of stanozolol, an anabolic steroid. Both testosterone and stanozolol are listed as Schedule III controlled substances under Title 21 U.S.C. § 802. Additionally, one syringe from the April 7, 2003, medical waste examination was determined by the lab to contain testosterone, an anabolic steroid. Also, one syringe and the vial with the label removed from the March 10, 2003 medical waste examination and the small vial with the label removed from the April 7, 2003 medical waste examination were analyzed and no controlled substances

were identified.

20. The syringes and syringe wrappers identified in the preceding paragraphs have particular significance in this investigation because there appears to be no legitimate explanation for their presence, and volume, other than the illegal administration of steroids. I have spoken with Larry Bowers, the Senior Managing Director of the U.S. Anti-Doping Agency (USADA) regarding the syringes I found in the Balco Laboratories medical waste. I have learned from conversations with USADA officials, including the organization's Chief Executive Officer, Terry Madden, that USADA is in charge of all drug testing for U.S. Olympic, Pan American and Paralympic athletes. USADA is the independent anti-doping agency for Olympic sports in the United States, and is responsible for managing the drug testing and adjudication process for the athletes. Dr. Bowers holds a Ph.D. in chemistry and has extensive experience in the area of testing for athletic performance-enhancing controlled substances. Dr. Bowers told me that the most common current method for withdrawing blood from a person is through the use of a device called a vacutainer, which is a needle attached to an evacuated tube used to withdraw the blood from the person. Dr. Bowers stated that a syringe is less likely to have been used to withdraw blood, and that if a syringe were used in this fashion, the syringe would likely contain trace elements of blood as a result of the process. I never saw any blood in the syringes I took from the Balco Laboratories garbage. The syringes typically contained a clear, oily substance. Three of the syringes have tested positive for steroids to date. Based on these facts, it is my understanding from speaking with Dr. Bowers that these syringes were more likely used to inject substances rather than to withdraw them. Furthermore, as stated previously, Conte has no authorization from either the state or federal government to use syringes to inject humans with controlled substances.

### G. E-Mail Account Search Warrants

21. During the course of this investigation, I requested and received federal search warrants for information contained on several e-mail accounts subscribed to by targets of this investigation, including several e-mail accounts subscribed to by Conte. These warrants were issued based on federal court findings that the facts contained in the affidavits supported the conclusion by a probable cause standard that Conte and others were using their e-mail accounts in furtherance of their illegal steroid distribution, mail fraud and related money laundering activities. As a result of the issuance of these warrants, numerous e-mails were obtained which show Victor Conte communicating with professional athletes and coaches about steroids, defeating steroid testing, attempts to keep these activities covert and concealing financial transactions. A sampling of e-mail content obtained from these search warrants appears below along with details providing context to the e-mails immediately following each sample e-mail. All of these e-mails either contain Victor Conte's name in the header or come from an account associated with Victor Conte and/or Balco Laboratories through account subscription information.

#### **E-mail #1**

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From: Victor Conte <send2victor@yahoo.com>  
To: <REDACTED>  
Date: Tuesday, August 20, 2002 10:24 p.m.  
Subject: headsup

Dear **REDACTED**:

I am sending you this email from a new more confidential email address. Please use this for all confidential communication. I need for you to advise **REDACTED** to discontinue using the clear. I recently found out that **REDACTED**, **REDACTED**, and **REDACTED** sent a sample of the clear to the IOC testers on an anonymous basis. This is very unfortunate. I have someone on the inside that recently gave me the headsup regarding this matter. I will be getting more information shortly regarding exactly when they will be testing for it. However, it seems as though it may be either at the Grand Prix or possibly at the World Cup. Apparently, **REDACTED** and company saw the performances of **REDACTED** and **REDACTED** and realized that money was getting ready to be taken from **REDACTED**, **REDACTED** and **REDACTED** and they became desperate. We might also want to somehow get this information to the coach for the Greek athletes

REDACTED and REDACTED so that nobody tests positive. They seem to be ready to charge athletes on a "related substances" charge. This is simply a result of them having a sample so that they can create a standard to identify the substance. This is why it is so important to work only with athletes that can be completely trusted. We already have a new one that we are working on that should be available in a couple of months. It is still okay for REDACTED to use the white cream. I will keep you informed as I get new information. I will respond to your questions about the SNAC products from the other email address. The good news is that we got the headsup in time to prevent any positive test results.

Best Regards,  
Victor

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22. Context of E-mail #1: The recipient of this e-mail is an international track and field coach. Several elite track and field athletes, including an Olympic gold medal winner and more than one world record holder, are mentioned in this e-mail. On August 19, 2003, I met with several members of the United States Anti-Doping Agency (USADA) regarding this investigation. The U.S. Anti-Doping Agency (USADA) is in charge of all drug testing for U.S. Olympic, Pan American and Paralympic athletes. USADA is the independent anti-doping agency for Olympic sports in the United States, and is responsible for managing the drug testing and adjudication process for the athletes. USADA personnel informed me that the time period of this e-mail (summer of 2002) coincides with the detection in two urine samples of one athlete of the anabolic steroid Norbolothone, a performance-enhancing substance prohibited under most sports drug-testing rules. Norbolothone, an anabolic steroid first synthesized in 1966, is not known to be marketed by any pharmaceutical company, leading to the conclusion that the steroid had been manufactured and/or provided by a clandestine, unauthorized source. Furthermore, Conte's references to this particular e-mail address as his "confidential" e-mail address, and his statement that he would discuss SNAC business from a separate e-mail address, suggests an intent to separate communications regarding his legitimate nutritional supplement business activity from his involvement in providing steroids to athletes.



**E-mail #2**

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From: **REDACTED**  
To: Victor Conte <send2victor@yahoo.com>  
Subject: Party  
Date: Sat., June 28, 2003

Dear Victor,

I'm sending you the latest schedule of Anti-doping list. As you can see at the Stimulant list Modafinil is on it!!! Of course after Catlin's Norbolethone detection this AAS is also included. I guess the party is over.

Best regards,  
**REDACTED**

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23. **Context of E-mail #2:** This e-mail is from the same international track and field coach as the previous e-mail. As detailed in paragraph 21, USADA informed me that Norbolethone was detected in an athlete's urine in the summer of 2002, and they now regularly test athletes for the substance. I believe that "Catlin" is a reference to Dr. Don Catlin, the head physician for the UCLA Olympic Drug Testing Lab, the lab used by USADA to conduct drug tests on athletes. USADA informed me that Dr. Catlin detected the Norbolethone in the athlete's urine. It appears reasonable to infer from this e-mail that Victor Conte and the international track and field coach were distributing norbolethone to athletes based upon the coach's statement to Conte that since the detection of Norbolethone, "I guess the party is over".

**E-mail #3**

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From: Victor Conte <send2victor@yahoo.com>  
To: **REDACTED**  
Date: Wednesday, November 20, 2002  
Subject: Re: EPO

Dear **REDACTED**:

How can I take advantage of the connections you have for the E without a lot of risk?

Any ideas? Do you and **REDACTED** plan to come here any time soon? We've changed some of the protocols for the L and C. I am sure that the Dynepo is coming soon. It is being held up by a lawsuit in England. I know it will be coming sometime soon, so please keep checking on a regular basis.

Bests Regards,

Victor

P.S. The alphabet is I, E, S,G plus L=liquid, C=cream. L and C is what I gave you for your triple jumper. S is what they take before competition readily available in Greece. And remember that all emails are saved for a very long time, so be careful about how you say what you say. Searches for keywords like "anabolic" and many others are going on at all times by big brother.

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24. **Context of E-mail #3:** The subject line of this e-mail states "EPO". I know from speaking with Larry Bowers of USADA that EPO stands for erythropoietin, a prescription drug that stimulates the production of oxygen carrying red blood cells. Bowers told me that EPO is commonly used by athletes to increase stamina and athletic performance. Through media research I have learned that Dynepo, as referred to in the above e-mail, is a new form of EPO for which no test currently exists. It is unknown what the other letters stand for, although I am aware from the investigation that anabolic steroids come in both a liquid and cream form.

**E-mail #4**

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**REDACTED** wrote:

Victor-

I have access to a testosterone gel. I was told I could use this on the thy. It would need to stay there for 4 hours. I'm wondering if I can use the cream that I already have? Let me know...I will be getting my testosterone results maybe today or tomorrow.

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From: Victor Conte <send2victor@yahoo.com>  
 To: **REDACTED**  
 Date: Tues., Aug 27, 2002  
 Subject: Re: Gel

Dear REDACTED:

Do not use the testosterone gel. It will cause a positive test result by elevating the T/E ratio. Whoever told you that it is ok is a complete idiot. You are already getting what you need from the cream, which will not elevate the ratio and you know why. Have you gone cuckoo! Have you been hanging out with REDACTED? Please understand that too much is just as bad as not enough. You are ready to rumble. It is time to run in the 49's.

Best regards,  
Victor

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REDACTED wrote:

You have to understand the person that gave me this didn't know that I already had the cream. I haven't used it so don't worry. I would never use any product without checking on it first. I haven't used the cream in a while since before and after Zurich, so I thought it wouldn't interfere with the cream since it wasn't used on the same day or around the same time.

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From: Victor Conte <send2victor@yahoo.com>  
To: REDACTED  
Date: Wed, Aug 28, 2002  
Subject: Re: Gel

Dear REDACTED:

What does "trick from europe" mean? If you take testosterone by any delivery system, i.e., oral, injection, patch or cream, it contains only testosterone and no epitestosterone, therefore it will increase the T/E ratio and cause a positive test result. Cream is the safest form to use simply because it will not cause a "spike" in the testosterone level, it will gradually increase and gradually decrease. However, during the time that the peak absorption occurs in the blood and then thereafter, when it clears into the urine, it will cause a increase in the T/E ratio for a time and could result in a positive test result. So, please explain how this is a "trick from europe"? There would be a significant risk in using the gel. You already have a safe and effective program, so why take the risk?

Best Regards,

Victor

P.S. The lab said that you appeared to be dehydrated because you had an elevated hematocrit and you know the reason why. You are going to run very fast on Friday!

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25. Context of E-mail #4: The other participant in this string of e-mails to and from Conte is an elite track and field athlete. I learned from personally speaking with Dr. Don Catlin, the head of the UCLA Olympic Drug Test lab, that the common anabolic

steroid test administered by various sports governing bodies is the testosterone to epitestosterone (T/E) ratio. Dr. Catlin told me that individuals trying to mask the use of anabolic steroids (testosterone) often take quantities of epitestosterone right before a drug test to even out the T/E ratio, a technique which can effectively mask the presence of the testosterone in the person's blood or urine. Evidence collected during this investigation indicates that individuals associated with Balco Laboratories have ordered epitestosterone through the mail on at least seven occasions in the last two years. Throughout this string of e-mails, Conte warns the athlete to avoid taking the testosterone gel and stick with the "cream" he gave the athlete, because the cream will not cause a spike in the T/E ratio and the athlete "knows why". It appears reasonable to infer that the cream that Conte provides the athlete contains testosterone as well as epitestosterone in order to keep the T/E ratio in balance. Also, in the "P.S." section of the above e-mail, Conte refers to the athlete's elevated hematocrit and tells the athlete "you know the reason why". Larry Bowers of USADA informed me that an "elevated hematocrit" is a thickening of the blood, and that this is a side effect from anyone taking EPO, or erythropoietin. As detailed earlier in this affidavit, erythropoietin is a prescription drug that stimulates the production of oxygen carrying red blood cells and is commonly used by athletes to increase stamina and athletic performance. EPO, while a prescription drug, is not a controlled substance.

#### E-mail #5

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**REDACTED** wrote:

Dear Victor,

Please don't forget to send me your identity number so I can transfer with Western Union the money. Also I have given order to my bank to transfer to your bank account you gave me - Wells Fargo - the amount on the invoice. The left over I will send with Western Union.

I will have some questions from time to time that people are asking and I don't have

always the answers. For example If a male is taking 25 mg Dianabol / 2 or 3 times a week, in 2 week cycles and 1 week off, how long does it take for him to be able to be clean?

People believe because I'm in the Nutrition business now that I have also answers for such themes. As you know from your own experience, the line is very thin between legal and non-legal supplementation. One more question: If a reading of an element (copper, chromium or iron etc etc) is low, for how long do you recommend extra supplementation with that specific element? Also do you have any new articles published?

Looking forward to your respond.

Best regards,  
**REDACTED**

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26. Context of E-mail #5: This is another e-mail sent to Conte from the previously mentioned international track and field coach in e-mails #1 and #2. I know from reviewing websites posted by individuals selling steroids on the Internet that Dianabol, which is referred to by the coach in the above e-mail, is a brand name of Methandrostenolone, an anabolic steroid and listed Schedule III controlled substance under Title 21. Based upon the information provided by the coach regarding the financial transactions, the manner in which the described financial transaction is being handled appears consistent with an effort to conceal a payment to Conte. The coach states that he has Conte's Wells Fargo account and will send the amount on the invoice to that account, and the "left over" amount will be sent with Western Union. Payment of an additional amount above and beyond that listed on the invoice, in my experience investigating money laundering cases, often indicates an intent to conceal the existence and amount of the "left over" amount owed Conte but left unreflected on the invoice. I know from my experience as a financial investigator that money transfers to bank accounts cause the recording of such transactions which are kept indefinitely, whereas money sent via Western Union is more difficult to trace. It is far easier to use false names for the sender and receiver of the funds. Finally, the sender notes that Conte knows, from Conte's own

experience, the "very thin line" between legal and non-legal supplementation, suggesting that Conte is familiar with illegal performance-enhancing activities.

**E-mail #6**

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From: Victor Conte <send2victor@yahoo.com>  
To: **REDACTED**  
Subject: Re: Tennis and more news back  
Date: Mon, June 30, 2003

Dear **REDACTED**:

Please DO NOT put the money from **REDACTED** into the SNAC account. The money is to be wired into my personal account. I will email you the checking account number or ask Jim and he will give it to you. Also do not worry about the "S" because I already have a new one that works great. I also have some other new additions to the program that work great. I prefer to give you the info by telephone. Looking forward to hearing back.

Best regards,  
Victor

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27. **Context of E-mail #6:** This e-mail further appears to demonstrate Conte's intent to conceal both the financial transaction and the subject matter of his "program." The other participant in this conversation is the same international track coach referenced in E-mails #1, #2, and #5. Conte appears to be giving instructions to the coach to place money from an international track and field athlete into Conte's personal bank account rather than his business bank account. In my experience as a financial investigator, this conduct is consistent with a person aware that the proceeds are derived from an illegal source. In this case, the conduct is consistent with Conte's knowledge that the services he is rendering to athletes are beyond his legal business revenues from the sale of legal nutritional supplements and legal blood mineral tests. This inference is further reinforced by Conte's "preference" to discuss the details of the "program" on the phone rather than via e-mail, given his concerns that "big brother" might be reviewing his e-mail, as detailed previously in E-mail #3.

### H. Surveillance

28. Considerable surveillance has been conducted in this investigation on the premises of Balco Laboratories. That surveillance has established a connection between Balco Laboratories and professional athletes through identification of numerous professional athletes, or persons associated with professional athletes, coming and going from Balco Laboratories, often for relatively brief visits. Included among the activity witnessed at and around Balco Laboratories during the last year is the following:

- In September 2002, an individual stopped by Balco Laboratories for a brief period of time before driving directly to a local professional sports stadium prior a scheduled game and entering the stadium through a restricted team entrance. This same individual had been previously identified in an anonymous phone call received by the Drug Enforcement Administration in early 2002 as an anabolic steroid provider to players of a local professional sports team.
- Between September 2002 and March 2003, several Major League Baseball players and at least one National Football League player visited Balco Laboratories for between five and ten minutes and left with nothing in their hands.
- Between November 2002 and January 2003, several large bodybuilders visited Balco Laboratories for between five and ten minutes and left with nothing in their hands.
- On April 18, 2003, an elite international track and field athlete visited Balco Laboratories for approximately ten minutes and left with his pants leg rolled up above his knee.

29. It is reasonable to infer from the brevity of these visits, the absence of anything in the athletes' hands, the observation of the athlete with a rolled-up pant leg, and the numerous syringes previously referenced in this affidavit that these athletes are receiving injections of anabolic steroids or some other performance-enhancing substance in connection with these visits.

30. In addition to surveillance of Conte's business location, I have conducted surveillance activities in an effort to identify Conte's residence. Through a review of San Mateo County public records, I learned that Conte owns property located at 716

West 27<sup>th</sup> Avenue. I have driven by this property on many occasions, and observed that it is a personal residence in a residential neighborhood. I have personally seen Conte go to this residence after work and have seen his cars there late at night, leading me to believe that Conte lives at this residence. Vehicles associated with Conte have regularly been observed late at night at the residence throughout the last year of this investigation, and as recently as August 28, 2003.

**I. Pen Register Analysis Showing Conte's Use Of Computer Away From Business**

31. As a part of this investigation, I requested and received a federal pen register order authorizing the access and review of e-mail header information for an e-mail account, send2victor@yahoo.com, which I had identified through my investigation as an e-mail address apparently used by Victor Conte. The pen register order allows me to receive information regarding individual e-mails, including the date, time, and unique Internet Provider (IP) address corresponding to the Internet Service Provider (ISP) used by the sender. With this unique IP address, it is possible to determine which Internet Service Provider is being used to send each individual e-mail.

32. I have determined, in my review of the pen register data for send2victor@yahoo.com, that Conte frequently sends e-mails using the ISP AT&T WorldNet Services. For example, on Saturday, August 16, 2003, an e-mail was sent from the account send2victor@yahoo.com to an e-mail account associated with the athlete mentioned in this affidavit previously in E-mail #4. Another e-mail was sent later on the afternoon of Saturday to a person whom I have learned is a well-known coach in the track and field community. Based on running the unique IP address for this e-mail through a web-based utility designed to identify IP addresses, I learned that the ISP for this IP number was AT&T WorldNet Services. Referencing this unique IP address, I have identified several other instances in August 2003 in which Conte has sent e-mails using the ISP AT&T WorldNet Services. I should note that in many surveillance



observations conducted on weekends, I have never seen Conte's cars at the Balco Laboratories/SNAC Systems, Inc. business location during weekends.

32. I have further gathered evidence that in approximately March 2003, Conte activated a DSL account through SBC Internet Services at his business location at 1520 Gilbreth Road, Burlingame, California. In addition, I learned during the execution of a search warrant on another e-mail service provider for what appears to be Conte's business e-mail account, conte@balcolab.com that Conte regularly accessed conte@balcolab.com through an SBC DSL line.

33. In light of the above, I believe it is reasonable to conclude that Conte uses computers at both work and home to send e-mails in connection with his activities in this case. The above facts illustrate that it is likely that Conte uses a computer at a different location than his business location to send e-mails. He sent the e-mail to the athlete with whom he discussed testosterone use on a Saturday from an account which was accessed with an ISP different from what appears to be his primary work ISP. The e-mail address for this e-mail contains Conte's first name ("Victor") but no reference to Balco Laboratories. In turn, Conte accesses conte@balcolab.com through an SBC DSL line, an e-mail address which specifically references his primary business. Based on the evidence, it is unlikely that he accessed the send2victor@yahoo.com through AT &T WorldNet from work given that he has an operational DSL line at work, a service which is, in my experience, far more efficient and expedient.

#### **J. Financial Analysis**

34. Several subpoenas have been issued to financial institutions for bank records relative to Victor Conte and his businesses, Balco Laboratories and SNAC System Inc. A portion of those subpoenaed records have been received to date. These bank records reflect that Conte makes numerous deposits into a personal bank account held with Wells Fargo Bank consisting of large checks from professional athletes. The

following payments to Conte by professional athletes in the partial return of bank records received to date are noted:

- A \$6,200.00 check deposited on 2/29/2000, from the bank account of a current NFL player.
- A \$2,100 check deposited on 6/1/2000, from the bank account of an elite track and field athlete, the same athlete that wrote Conte a note requesting his next "cycl" (sic) as detailed earlier in this affidavit.
- A \$7,350 check deposited on 9/8/2000, from the bank account of an elite track and field athlete and Olympic gold medal winner.
- A \$1,100 check deposited on 1/18/2001, from the bank account of a current NFL player.
- An \$875 check deposited on 4/27/01, from the bank account of an elite track and field athlete and current world record holder.
- A \$1,000 check deposited on 5/2/2001, from the bank account of a current NFL player.
- A \$750 check deposited on 8/31/01, from the bank account of a current NFL player.
- A \$3,000 check deposited on 10/26/01, from the bank account of a current NFL player.
- A \$1,400 check deposited on 12/3/01, from the bank account of a current NFL player.
- A \$750 check deposited on 1/23/02, from the bank account of a current NFL player.
- A \$750 check deposited on 1/29/02, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- An \$880 check deposited on 2/15/02, from the bank account of a current NFL player.
- A \$1,000 check deposited on 2/20/02, from the bank account of an elite track and field athlete and current world champion.
- A \$1,000 check deposited on 2/29/02, from the bank account of an elite international track and field athlete.
- A \$950 check deposited on 3/7/02, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- A \$2300 check deposited on 3/7/02 from the bank account of an elite international track and field athlete.

- An \$120 check deposited on 3/27/02, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- A \$960 check deposited on 5/3/02, from the bank account of an elite international track and field athlete.
- A \$240 check deposited on 5/7/02, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- A \$120 check deposited on 5/30/02, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- A \$960 check deposited on 5/30/02, from the bank account of an elite international track and field athlete.
- A \$1000 check deposited on 6/4/02, from the bank account of a former NFL player.
- A \$370 check deposited on 6/6/02, from the bank account of an elite track and field athlete.
- A \$370 check deposited on 6/6/02, from the bank account of an elite track and field athlete and current world record holder.
- A \$500 check deposited on 6/6/02, from the bank account of an elite track and field athlete and current world record holder.
- A \$195 check deposited on 8/14/02, from the bank account of an elite track and field athlete and current United States champion.
- A \$4,000 check deposited on 8/20/02, from the bank account of a current NFL player.
- A \$1980 wire deposited on 8/22/02, sent from Europe by an elite international track and field athlete.
- A \$300 check deposited on 12/16/02, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- A \$300 check deposited on 12/16/02, from the bank account of an elite track and field athlete.
- A \$300 check deposited on 12/16/02, from the bank account of the elite track and field athlete, who as discussed earlier in this affidavit, e-mailed Conte to discuss testosterone gel.
- A \$300 check deposited on 12/17/02, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- A \$300 check deposited on 1/31/03, from the bank account of the elite track and field athlete who, as discussed earlier in this affidavit, e-mailed Conte to

discuss the testosterone gel.

- A \$300 check deposited on 2/6/03, from the bank account of an elite track and field athlete.
- A \$4000 check deposited on 2/13/03, from the bank account of a current NFL player.
- A \$300 check deposited on 3/11/03, from the bank account of an elite track and field athlete.
- A \$300 check deposited on 3/18/03, from the bank account of the track and field athlete who requested his next "cycl" (sic).
- A \$5900 check deposited on 3/25/03, from the bank account of an elite international track and field athlete.
- A \$2400 check deposited on 4/13/02, from the bank account of an elite track and field athlete.
- A \$300 check deposited on 5/12/03, from the bank account of a track and field coach to several elite athletes.

35. Although Conte's businesses, Balco Laboratories and SNAC Systems, clearly earn revenue from the legitimate sale of nutritional supplements and blood mineral and metal testing, the amounts of the checks listed above do not coincide with the prices of products and services offered by Conte. As detailed on SNAC's website, no SNAC product sells for more than \$50 for a one-month supply, with most priced under \$20 per month. Additionally, documents located in the discarded trash of Balco show that charges for trace mineral and element blood testing are less than \$200. Regular checks from athletes in the several hundred dollar range and occasional checks in the several thousand dollar range appear to greatly exceed the costs associated with Balco Laboratories' and SNAC Systems' legitimate products and services. Additionally, in comparing Conte's business and personal accounts, when Conte receives checks directly from athletes, he typically deposits them into this account rather than his business account.

36. The records received to date also reflect a large amount of cash withdrawal activity by Victor Conte over the last few years. From January of 2000 through September of 2002, Conte withdrew in excess of \$480,000 in currency from his personal

and business accounts.

37. During the surveillance of Balco Laboratories on September 23, 2002, myself and other agents followed Victor Conte to the Broadway, Burlingame branch of Wells Fargo Bank. IRS-CI Special Agent Wendy Bergland entered the bank and stood close enough to Conte to hear his conversation with the bank teller inside. As Conte approached the teller inside the bank she asked him, "100's?" Conte said "Yes," as the teller took paperwork from him, stamped it and counted out \$2,000 cash in \$100 bills. After receiving the cash from the teller Conte stated "See you tomorrow."

38. Based upon my training and experience, and my conversations with agents from the San Mateo County Narcotics Task Force (NTF) who I am informed have extensive training and experience in steroids investigations, persons involved in purchasing steroids and other controlled substances on the black market usually make those purchases with cash in order to avoid a financial trail on those transactions. Additionally, based upon my training and experience as a financial investigator, and the many businesses and corporations that I have financially analyzed and investigated, I do not believe that an individual with at least one personal and two corporate checking accounts like Victor Conte, would have a legitimate need for a large volume of currency such as Conte appears to be generating. My review of Conte's account records reflect that he uses checks for many of his bills. I found numerous checks written from Conte's corporate account for vendors, landlords, employees and utility expenses, showing that he makes business payments with checks in his regular course of business. Conte is also making his personal mortgage payments and car payments with checks from his accounts.

#### **K. Emeric Delczeg**

39. The agent surveillance previously referenced in this affidavit also resulted in the identification of one Emeric Delczeg. Delczeg was observed spending several

hours inside the offices of Balco Laboratories.

40. In the aforementioned interview of Conte in the November 13, 1998 article of "Testosterone" magazine, detailed earlier in this affidavit, Conte states: "A few of the older athletes feel that GH (growth hormone) supplementation has helped them extend their competitive career. I know a pro bodybuilder named Emeric Delczeg who's 47 years of age who supplements with GH (growth hormone), and he maintains a level of around 400 ng/ml. This is the level of a man twenty years younger."

41. On October 10, 2002, I received information from San Mateo County Narcotics Task Force (NTF) agent Ed Barberini that NTF had received information from a confidential informant that Emeric Delczeg was a steroid supplier to Balco Laboratories. Agent Barberini has informed me that the confidential informant who provided this information had pled guilty to felony steroid distribution charges a few years ago. Since the guilty plea, the informant has been providing information to the NTF on other individuals associated with steroids in an attempt to earn a reduced sentence in his criminal case. Agent Barberini has informed me that due to the cooperation provided by the informant, he has not done any jail time for his steroid conviction. The informant has never been paid by the NTF. Agent Barberini has informed me that the informant has been deemed a reliable informant.

42. The informant told NTF that Delczeg, who is Bulgarian, obtains steroids and other performance enhancing drugs from Europe and provides them to Balco in exchange for permission to sell a supplement on which Balco or its subsidiary, SNAC System Inc., owns licensing rights. In October 2002, the informant told NTF that Delczeg was in Europe to purchase steroids for Balco.

43. United States Customs Special Agent Matt Van Dyke was contacted regarding any Customs information on Delczeg. Special Agent Van Dyke provided me with information that Delczeg had a shipment of twenty-five (25) ampules of steroids

seized from a UPS hub in Louisville, Kentucky on June 25, 1996. Two documents found inside the shipment listed the supervising physician as Dr. James Buckley, 2100 Carlmont Drive, Belmont, CA. On June 26, 1998, law enforcement officials contacted Delczeg about the seizure of the steroids. Delczeg stated that he ordered the steroids for his personal use and that he used the name of Dr. James Buckley to make the order look legitimate, but that Buckley was not involved in the importation of the steroids.

44. Further information provided on Delczeg by Special Agent Van Dyke was that Delczeg had entered the United States on a flight from Europe on October 9, 2002, the day before the NTF had informed me of their informant's information that Delczeg was in Europe to obtain steroids for Balco Labs. Upon entry into the United States, Delczeg was referred to secondary inspection by Customs, however, no steroids or illegal property were found on his person or in his baggage. Delczeg was further identified as having an active import record and import number. Special Agent Van Dyke informed me that the import number is in the name of Emeric Delczeg and Paul Bezdek, DBA Fitness Enterprise. Special Agent Van Dyke provided me with further information that Bezdek, Delczeg's business partner, also had a prior steroid seizure made from him, in 1992.

45. On October 21, 2002, an examination of the discarded trash from the residence of Emeric Delczeg at 2711 All View Way in Belmont, California was performed at the BFI transfer station in San Carlos, California. Located within the discarded trash from Delczeg's residence were two (2) used syringes, a large medical needle and a clear vial with a small amount of clear fluid. Although the vial's contents were tested by the DEA lab in San Francisco and no traces of a controlled substance were detected, I know from the investigation in this case that syringes and vials of this nature are synonymous with anabolic steroid paraphernalia, and that individuals who are taking anabolic steroids will often inject other, non-controlled substances to increase the

effectiveness of the steroids.

46. During surveillance conducted on Balco Labs on November 12, 2002, Delczeg was observed in the Balco Lab parking lot handling boxes near his vehicle, a 1995 Mercedes with license plate 4EKP435. Delczeg's vehicle was observed in the Balco Labs parking lot for several hours. Additionally, several items retrieved from the discarded trash of Balco Labs over the last year, including luggage tags and post-it notes, have had Delczeg's name on them.

47. The financial analysis of Conte's personal and business bank accounts has revealed numerous payments by Conte to Delczeg from Conte's SNAC Systems Inc. corporate account. The following payments made from the Wells Fargo Bank SNAC System Inc. corporate account to Emeric Delczeg were noted:

<u>Check Date</u>	<u>Amount</u>	<u>Disposition</u>
2/24/99	\$1,600	Cashed by Delczeg
2/8/00	\$1,500	Cashed by Delczeg
2/14/00	\$1,984	Cashed by Delczeg
2/24/00	\$3,188	Cashed by Delczeg
3/13/00	\$1,200	Cashed by Delczeg
3/21/00	\$1,600	Cashed by Delczeg
4/5/00	\$3,600	Cashed by Delczeg
4/19/00	\$1,060	Deposited to Delczeg personal account
5/24/00	\$2,800	Cashed by Delczeg
6/16/00	\$4,900	Cashed by Delczeg
11/3/00	\$2,250	Cashed by Delczeg
12/1/00	\$1,640	Cashed by Delczeg
1/24/01	\$1,500	Cashed by Delczeg
10/1/02	\$1,200	Cashed by Delczeg



At the time of the compilation of this chart, several months of records relating to the SNAC System Inc. Wells Fargo Bank corporate account are still outstanding.

48. Based upon the deposit of one of the above checks to Delczeg's personal account, an account held with Washington Mutual Bank, a grand jury subpoena was issued for records relating to this account. Among the records received on the account to date, were three checks written by Delczeg in July of 2002 to Anthony McDonald. In the bottom left portion of each check are written the letters "HGH". As detailed previously in this affidavit, a torn and empty box of human growth hormone was located in the discarded trash of Balco Laboratories on September 3, 2002 and a yellow post-it note with the names of two human growth hormones, Nutropin AQ and Somatropin, was located in the discarded trash of Balco Laboratories on April 28, 2003. Also, as detailed previously, 28 vials of human growth hormone were found in Balco's discarded medical waste on May 5, 2003. While human growth hormone is not classified as a controlled substance, I am aware that it has athletic performance enhancing benefits and is commonly used by athletes to achieve greater muscle size and strength. Additionally, as noted previously, the distribution of human growth hormone for non-medical purposes is a federal violation under Title 21, U.S.C. § 333(e)(1). The checks from Delczeg to Anthony McDonald are as follows:

<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>	<u>Notation</u>
1774	7/3/02	\$2,500.00	HGH
1784	7/12/02	\$2,400.00	HGH
1811	7/25/02	\$5,000.00	HGH

Each of the above cancelled checks indicated that McDonald negotiated them for cash with an Arizona driver license.

49. A subpoena was issued for records relating an American Express account held by Balco Laboratories in the name of James J. Valente. I know that Valente is the

vice president of Balco Laboratories based upon a business card found in the Balco Laboratories/SNAC System, Inc. garbage identifying Valente as the Balco vice president, and because Valente's car has a personalized license plate stating "BALCOVP." Records from American Express received in response to that subpoena reveal several charges to Valente's account from "In Touch Pharmaceuticals" in Phoenix, Arizona. Public records research on "In-Touch Pharmaceuticals" reveals that the company's registered agent with the State of Arizona is the same Anthony McDonald as detailed in the above paragraph. The following is a summary of charges from "In-Touch Pharmaceutical" to Valente's Balco Labs' American Express account:

<u>Date</u>	<u>Amount</u>
7/28/00	\$495.00
8/4/00	\$495.00
8/7/00	\$995.00
8/14/00	\$2500.00
8/14/00	\$2500.00
8/21/00	\$995.00

#### L. Use of Epitestosterone to Fraudulently Mask Steroid Use

50. During the examination of discarded trash from Balco Laboratories, an invoice for the purchase of an unknown quantity of epitestosterone was retrieved that indicated the purchase and shipment of epitestosterone to Balco Laboratories and "Victor" at 1520 Gilbreth Road in Burlingame, California, from a company named Sigma. As detailed earlier in this affidavit in the section entitled "E-mail Account Search Warrants," Conte has e-mailed an elite track and field athlete about testosterone to epitestosterone drug ratios.

51. I contacted and spoke to Dr. Don Catlin, the medical director of the UCLA

Olympic Laboratory. Dr. Catlin explained to me that his laboratory is the premier performance-enhancing drug testing facility in the United States. Dr. Catlin's lab performs drug testing for the United States Anti-Doping Agency, the National Football League and the National Collegiate Athletic Association (NCAA).

52. Dr. Catlin told me that the primary use for epitestosterone is to fraudulently defeat testosterone (anabolic steroid) drug testing. Dr. Catlin stated that the way that abnormal testosterone levels are measured in a person is by calculating the ratio of testosterone level to the epitestosterone level in the person's urine or blood. (All people have at least some testosterone and epitestosterone naturally occurring in their blood). He stated that a normal testosterone to epitestosterone ratio in a human is 1:1, but that most sports' governing bodies allow a 6:1 ratio of testosterone to epitestosterone in order to account for some individuals' natural abnormalities. Dr. Catlin explained that when an athlete is taking large amounts of testosterone to enhance athletic performance, he or she will often inject epitestosterone right before a steroid test is administered in order to even out their ratio and fraudulently pass the test.

53. Dr. Catlin of the UCLA Olympic Drug Testing Lab informed me that epitestosterone is a biological form of testosterone which does not promote muscle growth; accordingly, it is not a controlled substance as defined in Title 21 U.S.C. Section 802.

#### **M. Conte Epitestosterone Newsgroup Posting**

54. In addition to the newsgroup postings appearing to be from Victor Conte displayed earlier in this affidavit, I found another newsgroup posting on the Internet which appeared to be from Conte specifically inquiring about the availability of epitestosterone. This epitestosterone posting as well as a response from another newsgroup member, is as follows:

---

From: Victor Conte (Conte@Balcolab.com):

Subject: Epitestosterone availability?  
 Newsgroups: misc.fitness.weights  
 Date: 1999/06/08

Does anyone know if epitestosterone is available from any source?

---

From: Bill Roberts (wroberts@grove.ufl.edu)  
 Subject: Re: Epitestosterone availability?  
 Newsgroups: misc.fitness.weights  
 Date: 1999/06/08

Steraloids or Sigma.

You could also make it readily by tosylation of testosterone followed by hydrolysis. There may be another better method but that one works.

Thanks for posting, Victor: I'd forgotten about you and forgot to put your name into my new replacement killfile. This was a handy reminder.

However, keep in mind that it is a controlled substance.

-- Bill

55. It should be noted that the purchase order found in Balco's trash that details an order of an unknown amount of epitestosterone by Victor at Balco Laboratories, is from Sigma, one of the two epitestosterone sources that Bill Roberts recommends to Conte in the aforementioned posting.

56. To date, a partial response to a grand jury subpoena has been received on a Balco Laboratories Inc. corporate bank account held with Washington Mutual Bank. Four (4) checks were located in Balco Lab's Washington Mutual Bank records that reflect payments made to Sigma-Aldrich, also known as Sigma, the company from which a purchase order shows Conte ordered an unknown quantity of epitestosterone. Details of the checks are as follows:

<u>Check Date</u>	<u>Payee</u>	<u>Amount</u>
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2/25/02	Sigma-Aldrich	\$271.54
8/22/02	Sigma-Aldrich	\$298.60
1/6/03	Sigma-Aldrich	\$298.42
3/28/03	Sigma-Aldrich	\$315.31

57. Additionally, records obtained from the subpoena served on American Express for Balco Labs' and James Valente's American Express account, as discussed previously, reflect additional charges from Sigma-Aldrich. The following charges were made on Balco's/Valente's American Express card to Sigma-Aldrich:

<u>Charge Date</u>	<u>Amount</u>
4/8/02	\$271.36
5/22/02	\$298.66
11/12/02	\$298.54

**N. Payments to Quest Diagnostics Containing Notation "Steroid(s)"**

58. In the subpoenaed bank records received to date from Balco Labs' corporate account with Washington Mutual Bank, I found numerous checks written from the Balco Labs account and signed by Victor Conte Jr. made payable to "Quest Diagnostics", a nationwide laboratory testing facility. Several of these checks have the notation "steroids" written on them. At least 33 such checks to Quest Diagnostics, written during the time period from September 13, 2000, through May 20, 2002, have been identified with the notation "steroid(s)" on them. In addition to those 33 checks, 65 checks are written to Quest Diagnostics from the Balco Labs account during the same time period and in similar amounts, which do not have the notation "steroids" on them. I am aware, through accessing the Quest Diagnostics website as well as Conte's apparent news posting referencing Quest as a credible lab for measuring testosterone, that certain Quest Diagnostics testing facilities perform blood and urine tests for anabolic steroids,

suggesting the possibility that Conte is sending his athlete clients' blood or urine samples to Quest in order to determine whether the presence of steroids can be detected.

#### **O. Information Obtained From USADA**

59. On August 19, 2003, NTF agent Ed Barberini and I met with members of the United States Anti-Doping Agency in Colorado Springs, Colorado. I had learned from speaking with USADA officials that USADA is involved in testing and conducting inquiries into allegations of athletes using banned substances, including anabolic steroids, in Olympic sports in the United States. After the issuance of a subpoena, USADA officials provided Barberini and I with the following information:

- On June 4, 2003, USADA's media representative Rich Wanninger, received a phone call from a known track and field news reporter, indicating that he had an individual who had information regarding the distribution and production of an undetectable athletic performance-enhancing substance to several prominent athletes in track and field. Wanninger told the media representative that he was interested in speaking with the informant.
- On June 5, 2003, Wanninger received a phone call from an unidentified individual who informed him that Victor Conte of Balco Laboratories was producing an undetectable athletic performance-enhancing steroid and distributing it to elite level athletes. The caller stated that the steroid was similar to the known steroid Genabol and stated that the athletes were taking it during training and/or competition without fear of testing positive. The caller identified by name several elite track and field athletes who have taken Conte's product and a track and field coach that was involved. The caller also stated that Conte was making human growth hormone and EPO available to the athletes.
- Later that day, the anonymous caller phoned back and told Wanninger that he had obtained a syringe that contained some of the product and that he could send it overnight. The next day USADA received the package which contained a syringe with

the needle removed. A sample of the fluid was sent to Dr. Don Catlin, the lead physician at the UCLA Olympic Drug Testing Laboratory. Through lab testing, Dr. Catlin was able to identify the substance as containing Tetrahydrogestrinone (THG), an anabolic steroid discovered several decades ago but never marketed by any drug companies.

- Upon USADA's instructions, Catlin re-screened urine collected from numerous track and field athletes during the 2003 United States Track and Field Championships held at Stanford University in June 2003. An initial "positive screening" for at least five (5) athletes for THG was discovered. I obtained the names of four of the athletes from USADA and compared those names to the names of athletes I have identified as associated with Conte in my investigation. With respect to three of the four athletes, I have found evidence of their relationship with Conte in my own investigation in the form of documents seized from Balco Laboratories/Snac Systems Inc.'s garbage and/or financial records reflecting payments from those athletes to Conte. One of the "screened positive" athletes is the same athlete identified previously in Section E of this affidavit as writing a personal note to Conte asking for his next "cycl" (sic). Another of the "screened positive" athletes is the same athlete who wrote the notes referenced in Section E of this affidavit stating "thanks for all the help at nationals," and "all that I have accomplished this season would not be possible without your support." According to USADA, the "positive screening" is the first step in completing a positive drug test, and it is anticipated that the positive drug tests for THG will be perfected shortly. USADA stated that the delay in the perfected positive tests is a result of having to synthesize an amount of THG to use as a "known positive" substance to compare against the urine samples. USADA is currently running a second check on the "screened positive" samples as a prerequisite to notifying the athletes of the result of the tests. This notification is scheduled to occur in early September 2003.

#### IV. BASIS FOR SEARCHES OF THE LISTED LOCATIONS

60. The allegations in this affidavit pertain to federal violations of conspiring to distribute controlled substances in violation of federal narcotics laws, and the laundering of the criminal proceeds derived from this criminal activity.

61. As an IRS-CI Agent, I have worked on numerous cases involving the laundering of proceeds of criminal activity, including cases involving the laundering of drug proceeds and the laundering of proceeds of fraudulent schemes. I have also discussed the details of this case with other agents experienced in working on narcotics cases. The narcotics agents with whom I have discussed the case also specifically have some experience working on steroid distribution cases. From both my own experience and my discussions with these agents, I have learned the following:

a. Individuals involved in the distribution of controlled substances, as well as individuals involved in fraudulent schemes, often maintain records of such transactions similar to record keeping in businesses which maintain legitimate employment and business practices. These records can be maintained for weeks or even months after a transaction occurs. These records often contain evidence which assist in identifying co-conspirators, the location of bank accounts or safe deposit boxes used to conceal and launder proceeds paid to or generated by the sale of controlled substances or by payments received in connection with a fraudulent scheme. These records may include payment sheets, debt sheets, ledgers, notebooks, and other handwritten logs of recipients of the controlled substances. The evidence of financial records may take the form of books, records, receipts, invoices, ledgers, tally sheets indicating customer activity and charges, and other documents relating to the income and expenditures of the business enterprise, credit card receipts, credit card machines, bank statements, employment records, lists of business associates, including addresses and telephone numbers and appointment and address books and calendars, journals of cash receipt, disbursement and



sales, payroll records, general and subsidiary ledgers of accounts receivable, accounts payable, and notes payable, wire transfers, bank statements, canceled checks, deposit slips, withdrawal receipts and loan information, computers, personal data assistants, electronic, electro-optical, and electro-magnetic data storage devices, and other electronic storage devices, and indicia of ownership or occupancy of the business.

b. I further know from my training and experience as an IRS-CI agent, and specifically my experience in executing search warrants, as well as my conversations with other agents experienced in investigating narcotics cases, that individuals involved in laundering the proceeds derived from illegal activities such as narcotics distribution or mail fraud often keep records of personal income (reported and unreported, legal and illegal) and personal expenditures in the form of various invoices, receipts, contracts, account statements, loan documents, tax returns, information used to prepare tax returns, bank records, and letters and correspondence. These financial records may also include bank statements, money drafts, letters of credit, financial statements, money orders, cashier's check receipts, passbooks, bank checks, safety deposit box keys, credit card records and other items or documents evidencing the secreting, transferring and/or concealing of assets and the obtaining, secreting, transferring, concealing and/or expending of money. I also know that these records are routinely stored at the individual's residence and residences used by these individuals in furtherance of their illegal activities, and that records of this type are normally kept for extended periods of time as they are frequently used in financial, tax and legal matters, as well as to prove ownership of assets for warranty and other purposes. All of these records are relevant to the investigation because individuals involved in organized schemes to distribute narcotics and engage in fraudulent schemes frequently maintain records of their financial activities in furtherance of those schemes, much like a normal business would maintain records of its financial activities.

c. It is common for persons engaging in narcotics distribution and money laundering activity to secrete certain documents at locations other than their main place of employment, in locations such as their residence or in a secure area such as a storage locker or drawer, in order to conceal incriminating documents or profits from law enforcement in the event of a search. This dynamic is illustrated in this case as indicated earlier in this affidavit by Conte's repeated requests to have certain e-mails addressed to a specific "confidential" e-mail account, and his request to have proceeds from certain business activities directed to his personal bank account. These actions suggest a conscious effort to maintain certain communications, items and proceeds apart from Conte's regular means of storing such items.

d. I further understand from my consultation with narcotics agents that it is common for persons involved in distributing controlled substances to maintain items associated with the packaging and distribution of controlled substances in their residences, business locations, and cars, including the controlled substances themselves, packaging related to the distribution of controlled substances, customer lists, pay/owe sheets, and other items associated with drug distribution activities.

62. In addition, based upon my experience in executing search warrants, I know that individuals involved in criminal schemes involving the laundering of proceeds generated from narcotics distribution schemes and schemes to defraud often keep files or records on a computer in connection with those illegal activities when they have access to a computer. As detailed above, there is ample reason in this case to believe that Conte has access to a computer and regularly uses that computer, as Conte regularly uses e-mail to discuss matters relating to steroids and his scheme to defraud testing procedures through the use of epitestosterone.

63. Detailed descriptions of the premises to be searched are attached as Attachments A1, A2, A5, A6, and A7 to the search warrants for each location. Upon a finding of

probable cause, in addition to authorizing a search of the five requested locations, it is hereby requested that the Court authorize a search of the attachments and appurtenances thereto, including the surrounding grounds and any yards, garages, carports, storage areas, and sheds, mailboxes, outbuildings, and trash containers assigned to the above premises, and all containers, locked and unlocked, therein and thereon which could contain any of the items sought.

**A. Probable Cause to Search 1520 Gilbreth Road, Burlingame, CA**

64. I believe that the foregoing facts in this affidavit present probable cause to believe that located on the premises of Balco Laboratories and SNAC System, Inc., at 1520 Gilbreth Road in Burlingame, California, is evidence, fruits and instrumentalities of Victor Conte's steroid distribution and the laundering of the proceeds from that distribution. The numerous inspections of discarded garbage from the business clearly demonstrate the presence of evidence of the above violations located within the facility of Balco Laboratories and SNAC System, Inc. Additionally, athletes have been surveilled during the last year spending short amounts of time within Balco, indicating the possibility of steroid administration from within Balco Laboratories and SNAC System, Inc.

**B. Probable Cause to Search 716 27th Avenue, San Mateo, CA**

65. I know from San Mateo County public records that 716 West 27th Avenue is a residence owned by Victor Conte Jr. I further know that Conte frequently comes and goes from this address based on my personal surveillance and the surveillance of other agents. I have seen Conte go this residence after work and have seen his cars there late at night, leading me to believe that Conte lives at this residence. Vehicles associated with Conte have regularly been observed late at night at the residence throughout the last year of this investigation, as recently as August 28, 2003. Over the past year, both the 2002 Jaguar and the 2003 Mercedes have been seen at the residence. This investigation

has clearly shown intent on Conte's behalf to separate suspected illegal proceeds from his business interests to his personal interests. As detailed in the e-mail section of this affidavit, Conte has instructed a Greek track coach to send certain funds from an athlete to his personal account and not his business account. Additionally, Conte's personal account with Wells Fargo Bank, into which most of the payments from athletes are deposited, reverts to a personal mailbox and not his business address, indicating Conte's intent to keep records of those payments separate from this business. Conte has also been observed during the last year arriving at and leaving the business location with a briefcase in his possession, suggesting that he brings documents home with him. Furthermore, as summarized above in Section III I, it appears likely that Conte is using a second computer other than his work computer to send e-mails, and it further appears reasonable to assume that this computer is located in his residence. Also, at least one such e-mail was sent to the athlete referenced earlier in this affidavit in E-mail #4, with whom Conte discusses the athlete's use of testosterone. For these reasons, I believe that probable cause exists to believe that evidence, fruits, and instrumentalities of the above described violations will be found at 716 27th Avenue in San Mateo, California.

**C. Probable Cause to Search Conte's Personal Mailboxes**

66. I know from reviewing items seized from Conte's garbage, a review of Conte's personal and business bank records, a review of mail covers providing address information for Conte's mail, and my own surveillance activities that Conte uses three personal mailboxes at two independent business locations. Two of the mailboxes are located at a sport's collectibles shop located at 345 California Drive in Burlingame, California. Conte rents mailbox numbers 22 and 34 at this location. I am aware through subpoenaed records that the address on Conte's personal account with Wells Fargo reverts to mailbox #22 at 345 California Drive, Burlingame, California and that Conte's SNAC System Inc. business account with Wells Fargo reverts to mailbox #34 at 345

California Drive, Burlingame, California. Additionally, I have observed discarded mail in Balco Laboratories' garbage with addresses from both of these mailboxes.

67. On July 21, 2003, within the discarded garbage of Balco Laboratories, I located and retrieved a receipt for a third mailbox. The receipt detailed the renting by Victor Conte of a personal mail box #137 at Mail Depot, 1336 El Camino Real in Millbrae, CA. The receipt details the rental from 7/16/03 through 10/16/03.

68. Surveillance, trash inspections and mail covers have indicated that Conte regularly receives mail at the Balco Laboratories location of 1520 Gilbreth Road, Burlingame, California. A mailbox is visible on the door outside of the entrance of the location. I have also confirmed through mail covers and discarded trash examinations that Conte receives mail at his personal residence at 716 27th Avenue in San Mateo, California. It is my experience, that individuals involved in criminal activity that rent multiple personal mailboxes while possessing valid mail addresses at their business and home, do so in an attempt to evade the monitoring and tracing of packages and mail involved in their illegal activity. Conte rents three mailboxes, located at two different addresses, while still having the ability to receive mail at his business and residence. Also, as detailed earlier in this affidavit in the section entitled "Examination of Discarded Trash", a Fed Ex receipt indicated that Conte received a package from a Canadian pharmacy at the address of 345 California Drive, Burlingame, California. No specific mailbox was referenced. Based upon these facts, and the fact that two of the mailbox addresses revert to bank accounts utilized in Conte's criminal actions, I believe that probable cause exists to believe that evidence of the above described violations is kept at the mailboxes rented by Victor Conte at 345 California Drive, #22, Burlingame, California, 345 California Drive, #34, Burlingame, California, and 1336 El Camino Real, #137 in Millbrae, CA.

#### **E. Probable Cause to Search Computers**

69. As detailed extensively in this affidavit, evidence has been collected showing that Conte and others use computers in furtherance of their criminal activities. In summary, Conte makes postings to an Internet message board regarding athletes and steroids, sends e-mails to athletes and coaches regarding performance-enhancing drugs and drug testing and has received e-mails from suspected athletic performance-enhancing drug suppliers of which a hard copy of such an e-mail was thrown out in Conte's discarded garbage. Because of these facts, I believe that probable cause exists to search any computers found on the physical locations of Conte's business and residence.

70. Based upon my training and experience (which includes the execution of search warrants involving personal computers), as well as from consultation with Special Agent Michael Farrelly, Computer Investigative Specialist, I am aware that searching and seizing information from computers often requires agents to seize most or all electronic storage devices and the related peripherals to be searched later by a qualified computer expert in a laboratory or other controlled environment. This is true because of the following:

(A) Computer storage devices can store the equivalent of millions of pages of information. Additionally, a suspect may try to conceal criminal evidence by, for example, storing it in random order with deceptive file names. This may require searching authorities to examine all of the stored data to determine which particular files are evidence or instrumentalities of crime. This sorting process can take weeks or months, depending on the volume of the data stored, and it would be impractical to attempt this kind of data search on site.

(B) Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert

is qualified to analyze the system and its data. In any event, however, data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recover even "hidden," erased, compressed, password-protected, or encrypted files. Because computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction, a controlled environment is essential to its complete and accurate analysis.

(C) The peripheral devices that allow users to enter or retrieve data from the storage devices vary widely in their compatibility with other hardware and software. Many system storage devices require particular input/output devices in order to read the data on the system. It is important that the analyst be able to properly reconfigure the system as it now operates in order to accurately retrieve the evidence listed above. In addition, the analyst needs the relevant system software (operating systems, interfaces, and hardware drivers) and any applications software that may have been used to create the data, as well as all related instruction manuals or other documentation and data security devices.

(D) For these reasons, I am requesting permission to remove the computer and peripherals so that a qualified computer examiner can examine them in an appropriate facility.

(E) If, after inspecting the input/output devices, software, documentation, and data security devices, the analyst determines that these items are no longer necessary to retrieve and preserve the data evidence, the government will return them within a reasonable time, no more than 10 days without further order of this court.

(F) The following definitions are applicable to this request for authorization to search computers at any of the requested locations:

1. Hardware – consisting of all equipment that can collect, analyze, create, display, convert, store, conceal, or transmit electronic, magnetic, optical, or similar

computer impulses or data. Hardware includes, but is not limited to, any data-processing devices (such as central processing units, memory typewriters, and self contained "laptop," "notebook," or "hand-held" computers); internal and peripheral storage devices (such as fixed disks, external hard disks, floppy disks drives and diskettes, tape drives and tapes, optical storage devices, transistor like binary devices, and other memory storage devices); peripheral input/output devices (such as keyboards, printers, scanner, plotters, video display monitors, and optical readers); and related communication devices (such as modems, cables, and connections, recording equipment, and RAM or ROM units); as well as any devices, mechanisms, or parts that can be used to restrict access to computer hardware (such as physical keys and locks).

2. Documentation – consisting of written, recorded, printed, or electronically stored material that explains or illustrates how to configure or use computer hardware, software, or related items.

3. Password and Data Security Devices – designed to restrict access to or hide computer software, documentation, or data. Data security devices may consist of hardware, software, or other programming code. A password usually operates as a sort of digital key to "unlock" particular data security devices. Data security hardware may include encryption devices, chips, and circuit boards. Data security software or digital code may include programming code that creates "test" keys or "hot" keys that perform certain pre-set security functions when touched. Data security software or code also may encrypt, compress, hide, or "booby trap" protected data to make it inaccessible or unusable, as well as reverse the process to restore it.

(G) Based upon my training and experience and discussions with forensic computer analysts, I understand that the analysis of electronically stored data, whether performed on-site or in a laboratory or other controlled environment, may entail any or all of several different techniques. Such techniques may include, but shall not be limited



to, surveying various file "directories" and the individual files they contain (analogous to looking at the outside of a file cabinet for the pertinent files and at file titles, in order to locate the evidence and instrumentalities authorized for seizure by the warrant); "opening" or reading the first few "pages" of such files in order to determine their precise contents; "scanning" storage areas to discover and possibly recover recently deleted data; scanning storage areas for deliberately hidden files; or performing electronic "keyword" searches through all electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are intimately related to the subject matter of the investigation. I anticipate that these techniques may be employed in this case.

(H) In searching for data capable of being read, stored, or interpreted by a computer, law enforcement personnel executing this search warrant will employ the following procedure:

1. Upon securing the premises, law enforcement personnel trained in searching and seizing computer data (the "computer personnel") will make an initial review of any computer equipment and storage devices to determine whether these items can be searched on-site in a reasonable amount of time and without jeopardizing the ability to preserve the data.
2. If the computer equipment and storage devices cannot be searched on-site in a reasonable amount of time, then the computer personnel will determine whether it is practical to copy the data during the execution of the search in a reasonable amount of time without jeopardizing the ability to preserve the data.
3. If the computer personnel determine that it is not practical to perform an on-site search or make an on-site copy of the data within a reasonable amount of time, then the computer equipment and storage devices will be seized and transported to an appropriate law enforcement laboratory for review. The computer equipment and

storage devices will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized set forth herein. The computer equipment and storage devices will be returned within no longer than 10 days from the date of seizure unless further authorization is obtained from the Court.

4. In searching the data, the computer personnel may examine all of the data contained in the computer equipment and storage devices to view their precise contents and determine whether the data falls within the items to be seized as set forth herein. In addition, the computer personnel may search for and attempt to recover "deleted," "hidden," or encrypted data to determine whether the data falls within the list of items to be seized as set forth herein.

5. In order to search for data that is capable of being read or interpreted by a computer, law enforcement personnel will need to seize and search the following items, subject to the procedures set forth above:

a. Any computer equipment and storage device capable of being used to commit, further, or store evidence of the offenses listed above, and

b. Any computer equipment used to facilitate the transmission, creation, display, encoding, or storage of data, including word processing equipment, modems, docking stations, monitors, printers, plotters, encryption devices, and optical scanners. The computers will be searched in a manner detailed in Attachment B of this affidavit. This procedure expressly provides that if agents are unable to access the contents of any computers found at the search locations, they are authorized to create an image of the hard drive and bring it to a laboratory setting to access the files and records described above, or alternatively, to remove the computer storage media for up to 10 days to access the files and records described above.

#### **F. Presence of USADA Officials at Search Warrant Locations**

71. I am requesting herein authorization to have representatives from the United

States Anti-Doping Agency (USADA) present at the search warrants in order to provide technical expertise on any unidentified drugs or substances, as well as documents regarding those drugs or substances, which may be encountered. Because evidence exists that Conte has distributed a new steroid that is being synthesized in a clandestine lab that was only recently discovered by USADA, I believe the assistance of trained USADA personnel is critical to accurately identifying such substances and related documentation. USADA officials will be given limited access at the search warrant and will be strictly monitored. USADA officials will be in the presence of a law enforcement agent at all times. They will only be called upon if agents cannot independently identify the substances or documents they are reviewing. In those instances, should they occur, an agent will accompany the USADA officials to the items found at the locations in order to determine whether or not the item is classifiable as an item to be seized under the authorization granted by the Court in issuing the warrant.

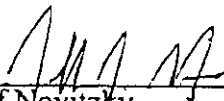
#### V. CONCLUSION

72. I believe that the foregoing facts presented in this affidavit present probable cause to believe that Victor Conte and others have committed violations of Title 21 U.S.C. § 841, the possession with intent to distribute, and distribution, of anabolic steroids, and Title 18 U.S.C. § 1956, the money laundering of profits earned from the drug distribution and mail fraud activities. Specifically, this affidavit has presented evidence of: illegal anabolic steroid and other athletic performance-enhancing drug distribution to professional athletes, including the distribution of new, untested substances; the use of the mail to purchase epitestosterone, a substance used in the fraudulent defeat of athletic performance enhancing drug tests; the withdrawal of over \$480,000 over a period of less than two years from Conte's accounts while paying most business and personal expenses with bank checks from those accounts; and the depositing of large checks from numerous professional athletes into Conte's personal

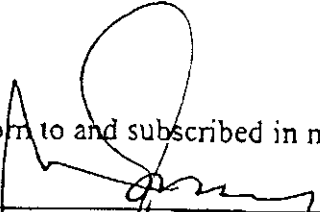
account instead of his business accounts, specifically at the request of Conte, constituting illegal money laundering transactions.

73. Based upon these facts, I believe that probable cause exists to believe that Victor Conte has committed the foregoing federal violations and that further evidence, fruits and instrumentalities of those violations will be found at his business address of 1520 Gilbreth Road, Burlingame, California; his personal residence at 716 27th Avenue in San Mateo, California; and three personal mailboxes located at 345 California Drive, #22, Burlingame, California, 345 California Drive, #34, Burlingame, California and 1336 El Camino Real, #137, Millbrae, California.

74. I declare under penalty of perjury that the foregoing is true and correct and that this affidavit was executed at San Jose, California, on September \_\_\_\_, 2003.

  
\_\_\_\_\_  
Jeff Novitzky  
Special Agent  
Internal Revenue Service  
Criminal Investigation

Sworn to and subscribed in my presence this 3 day of September, 2003.

  
\_\_\_\_\_  
Howard R. Lloyd  
United States Magistrate Judge  
Northern District of California