

FILED

13 FEB 28 AM 11:42

CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

1 JONATHAN D. MILLER (SBN 220848)  
 2 HOLLY C. BLACKWELL (SBN 224941)  
 3 NYE, PEABODY, STIRLING, HALE & MILLER, LLP  
 33 West Mission St., Suite 201  
 Santa Barbara, California 93101  
 Telephone: (805) 963-2345  
 Facsimile: (805) 563-5385  
 jonathan@nps-law.com  
 holly@nps-law.com

7 BENJAMIN J. SWEET (PA SBN. 87338)  
 8 DEL SOLE CAVANAUGH STROYD, LLC  
 9 200 First Avenue, Suite 300  
 Pittsburgh, PA 15222  
 Telephone: (412) 261-2393  
 Facsimile: (412) 261-2110  
 bsweet@dscslaw.com  
 ekilpela@dscslaw.com

13 *Proposed Lead Counsel*  
 14 *Attorneys for Individual and Representative*  
 15 *Plaintiff Robert Martin and the Proposed Class*

16 UNITED STATES DISTRICT COURT  
 17 CENTRAL DISTRICT OF CALIFORNIA  
 18 WESTERN DIVISION

19 ROBERT MARTIN, on behalf of  
 himself and all others similarly  
 20 situated,

Plaintiff,

21 vs.

22 FRS COMPANY, OAK  
 23 INVESTMENT PARTNERS, and  
 24 LANCE ARMSTRONG  
 Defendants.

CV13-01456-ABC (MAN)

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMAND

1 Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff  
2 Robert Martin (hereinafter, "Plaintiff") bring this Class Action Complaint  
3 against Defendants FRS Company ("FRS" or the "Company"), Oak  
4 Investment Partners ("OIP"), and Lance Armstrong (collectively,  
5 "Defendants"), individually and on behalf of a proposed Class as defined  
6 herein. In support of Plaintiff's Class Action Complaint, Plaintiff alleges the  
7 following, based on his personal experiences and the investigation of counsel:

8 **I. NATURE OF THE ACTION**

9 1. This is a putative class action on behalf of a nationwide class  
10 seeking injunctive relief and compensation for damages caused by  
11 Defendants' misleading practices in their marketing and advertising of  
12 multiple sports-related energy products from the inception of Defendant  
13 Armstrong's involvement with Defendant FRS in 2007 through the end of  
14 his involvement in October 2012 (the "Class Period").

15 2. Defendant FRS manufactures, sells, advertises, and markets  
16 energy and sports drinks, concentrates, chews, and powders ("FRS  
17 products") throughout the United States and online from its headquarters  
18 based in Torrance, California.

19 3. Defendant Armstrong was, for many years, one of the most  
20 famous and idolized athletes in the world. In 2008, Defendant Armstrong  
21 was recognized as *Time Magazine's* 100 most-influential people in the world  
22 after winning his then-record 7<sup>th</sup> Tour de France world title.<sup>1</sup>

23 4. Defendant Armstrong, upon information and belief, is also a  
24 partial owner of Defendant FRS and, from 2007 until his recent resignation  
25 from the Company, served as both a member of the Board of Directors and  
26 as "FRS Ambassador". In addition to his positions within the FRS corporate  
27 structure, Defendant Armstrong was an outspoken user of FRS products, and

28 

---

<sup>1</sup><http://www.time.com/time/specials/packages/completelist/0,29569,1733748,00.html>

1 for many years served as the chief spokesperson for Defendant FRS,  
2 leveraging his athletic fame to increase Defendant FRS's market presence  
3 and sales. Upon information and belief, during the period in which he was  
4 actively engaged in the operations and corporate strategies at FRS,  
5 Defendant Armstrong participated in significant decisions regarding  
6 Defendant FRS' management, including but not limited to, decisions  
7 concerning Defendant FRS' marketing and advertising approaches regarding  
8 FRS products.

9         5. Defendant Armstrong's position as Company spokesperson was  
10 intimately intertwined with his position as a corporate officer and Director  
11 and Defendant Armstrong used his dual role to promote and market FRS  
12 products, stating "*I sit on the Board . . . represent the [FRS] brand . . . speak*  
13 *to it . . . [I am the] spokesperson for [FRS products] . . .*"<sup>2</sup> Likewise,  
14 Defendant FRS aggressively promoted its relationship with Defendant  
15 Armstrong and Defendant Armstrong's use of FRS products, stating on its  
16 website that not only is FRS "*endorsed by Lance Armstrong . . . [but]*  
17 *Lance's relationship with FRS is more than an endorsement deal, it's a*  
18 *partnership. . . . Lance has joined our Board of Directors and chosen FRS to*  
19 *be the exclusive beverage he represents worldwide.*"<sup>3</sup> Indeed, with  
20 Defendant Armstrong serving as both corporate officer and spokesperson  
21 during the height of his athletic fame, Defendants' based their entire  
22 advertising and marketing campaign for FRS products on one concept,  
23 Defendant Armstrong's accomplishments and abilities, which Defendants  
24 advertised as being linked with Defendant Armstrong's use of FRS products.

25  
26  
27 <sup>2</sup> <https://www.youtube.com/watch?v=hjcgGTV6IXI>

28 <sup>3</sup> <http://lancearmstrongfrs.blogspot.com/>, *quoting and citing* <http://affiliate-marketing-forums.5staraffiliateprograms.com/affiliate-program-announcements/9476-frs-healthy-energy-drink-affiliate-program-up-22-a.html>

1           6.     Shortly after Defendant Armstrong joined the company,  
2 Defendant FRS conceived of a marketing plan that not only leveraged  
3 Defendant Armstrong’s athletic fame to sell FRS products but inexorably  
4 linked Defendant Armstrong’s accomplishments to the use of FRS products.  
5 During their multi-year campaign, which involved print, internet and  
6 television advertisements, and during which sales of FRS products increased  
7 exponentially, Defendants’ continually claimed that the “*most important*”  
8 reasons to choose and purchase FRS products, as opposed to the many  
9 thousands of other energy and health supplements currently on the market, is  
10 because: (a) Defendant Armstrong was the only person in the world to have  
11 won 7 Tour de France world titles; (b) Defendant Armstrong relied on FRS  
12 products to obtain his extra-ordinary strength, speed, energy and endurance;  
13 and, (c) FRS products were Defendant Armstrong’s “*secret weapon*” which  
14 “*fuels him*” to victory and “*gives him an edge.*”<sup>4</sup>

15           7.     Defendants’ television commercials aptly demonstrate the link  
16 that Defendants drew between FRS products and Defendant Armstrong’s  
17 seemingly super-human abilities. In the commercials, Defendant Armstrong  
18 is shown training or cycling with intense effort and then the commercial  
19 states that the “secret weapon” that makes Defendant Armstrong’s efforts  
20 possible is FRS products.<sup>5</sup>

21           8.     In addition to linking Defendant Armstrong’s athletic  
22 performance to his use of FRS products, Defendants marketed FRS products  
23 using Defendant Armstrong’s position as a 7-time Tour de France Winner.<sup>6</sup>

24 \_\_\_\_\_  
25 <sup>4</sup> See, e.g., Exhibits A through E, hereto.

26 <sup>5</sup> See, e.g., <http://web.archive.org/web/20100224165607/http://www.frs.com/>  
27 <http://youtu.be/-cXs4gaB1-A>  
28 <http://web.archive.org/web/20100115174720/http://www.youtube.com/user/TheFRSHealthyEnergy>

<sup>6</sup> See, e.g., Exhibit A;  
<http://web.archive.org/web/20100805085940/http://www.frs.com/frs-lance-armstrong> .

1           9. The patent falsity of Defendant FRS's advertising campaign  
2 involving Defendant Armstrong, which was single-handedly responsible for  
3 its exponential increase in market share, was revealed when, contrary to  
4 Defendants' vehement denials over the span of more than a decade that  
5 Defendant Armstrong had *never* used illegal substances to achieve his  
6 athletic feats, Defendant Armstrong finally admitted, in a nationally  
7 televised interview with Oprah Winfrey, that he *had*, in fact, used illegal  
8 substances, including banned performance-enhancing drugs and human  
9 growth hormones, throughout his career.

10           10. In that interview, Defendant Armstrong admitted: "*I lied and lied*  
11 *repeatedly*" and confirmed that his career of illegal substances, including  
12 banned performance-enhancing drugs and human growth hormones, was the  
13 *only* way Defendant Armstrong could possibly have won 7 Tour de France  
14 titles or exhibited the extra-ordinary strength, speed, energy and endurance  
15 Defendants claimed, advertised and marketed during the Class Period as  
16 resulting only from Defendant Armstrong's use of FRS products.<sup>7</sup>

17           11. Moreover, Defendants' repeated claims that Defendant  
18 Armstrong was a 7-time Tour de France winner were false.

19           12. But for Defendants' false and misleading advertisements,  
20 described herein, consumers, including Plaintiff and the Class, would not  
21 have purchased FRS products or would, at a minimum, have paid less for  
22 FRS products.

## 23 **II. JURISDICTION AND VENUE**

24           13. This Court has subject matter jurisdiction over this action  
25 pursuant to 28 U.S.C. §1332(d)(2), because the proposed Class has more  
26 than 100 members, the class contains at least one member of diverse  
27

---

28 <sup>7</sup> [http://www.oprah.com/own\\_tv/onc/lance-armstrong-one.html](http://www.oprah.com/own_tv/onc/lance-armstrong-one.html)

1 citizenship from Defendants, and the amount in controversy exceeds \$5  
2 Million.

3 14. The Court has personal jurisdiction over Defendants because  
4 Defendants FRS and OIP are headquartered in the State of California and all  
5 Defendants regularly transact business within the State of California.  
6 Moreover, the deceptive and misleading advertising and marketing of FRS  
7 products originated in and emanated from California.

8 15. Venue properly lies in this District pursuant to 28 U.S.C.  
9 §1391(a)(1), because Defendant FRS is headquartered and conducts its  
10 business from Torrance, California, which is in this District, and because all  
11 Defendants conduct substantial business within this District.

12 **A. Application of California Law To Consumers Nationwide is**  
13 **Appropriate**

14 16. Defendants FRS and OIP are headquartered in California and  
15 Defendants' advertising, marketing and product promotion was conceived in  
16 and emanates from Defendant FRS' headquarters in Torrance, California.

17 17. Application of California law to consumers nationwide is  
18 appropriate because Defendants maintain their marketing and advertising  
19 department(s) in Torrance, California where the alleged misconduct,  
20 described herein, emanated from. In addition, Defendants' products are  
21 distributed throughout the United States from their facilities located in  
22 Torrance, California.

23 **III. PARTIES**

24 18. Defendant FRS maintains its headquarters and principal place of  
25 business at 20100 S Vermont Avenue, Torrance California, 90502, in the  
26 County of Los Angeles. Defendant FRS operates in and from California  
27 throughout the United States. Defendant FRS is privately held and was  
28 founded in 2004. Defendant develops, manufacturers, markets, advertises,

1 and promotes a line of energy supplements (i.e., ready-to-drink concentrates,  
2 chews, drinks, shots, and powders).

3 19. Defendant OIP has a headquarters located at 525 University  
4 Avenue, Suite 1300, Palo Alto, CA 94301, in the County of Santa Clara.  
5 Upon information and belief, Defendant OIP is the majority equity owner in  
6 Defendant FRS. In addition, upon information and belief, the Managing  
7 Partner at Oak Investment Partners, Fred Harmon, is a Director of Defendant  
8 FRS.

9 20. Defendant Armstrong, upon information and belief, resides in  
10 Austin, Texas, in the county of Travis, is an equity owner in Defendant FRS  
11 and, from 2007 until his recent resignation from the company, was Director  
12 of FRS and its chief Company Representative.

13 21. Plaintiff Robert Martin is a resident and citizen of Long Beach,  
14 New York. During the Class Period, Martin purchased FRS products which  
15 are the subject matter of this dispute, including, but not limited to, FRS  
16 chews and drinks.

#### 17 **IV. FACTUAL ALLEGATIONS**

##### 18 **A. General Relevant History**

19 22. Consumers are increasingly health conscious. In a study  
20 commissioned by the *Natural Products Foundation's Dietary Supplements*  
21 *Information Bureau*, the U.S. dietary supplements industry is estimated to be  
22 valued at a staggering \$61 Billion.<sup>8</sup> As a result, there are thousands of health  
23 and energy supplements currently for sale. The contents and labeling of  
24 these products is unregulated by the FDA.

25 23. Defendant FRS was formed in 1997 with the intention of being a  
26 healthy alternative to other sports beverages that were, often, laden with

27 \_\_\_\_\_  
28 <sup>8</sup> <http://www.nutraingredients-usa.com/Industry/Supplements-industry-worth-61bn-to-US-economy>

1 sugar and other less-than-healthy contents. The company has described its  
2 target audience as “healthy, active” people who seek performance enhancers  
3 “grounded in real science.”<sup>9</sup>

4 24. The company grew slowly and then, in 2007, agreed to an  
5 exclusive sponsorship with Defendant Armstrong in which Defendant  
6 Armstrong agreed to exclusively use and market FRS products in exchange  
7 for an equity position in the company.

8 25. After acquiring his interest in Defendant FRS, Defendant  
9 Armstrong increased his involvement in the company’s day-to-day  
10 operations by serving as a Director of FRS, spokesperson for FRS, and the  
11 face and “Ambassador” of Defendant FRS until his recent resignation.  
12 During that period, on information and belief, Defendant Armstrong was  
13 involved in company decisions regarding Defendant FRS’ management, its  
14 marketing and advertising approaches, and its image. In Defendant  
15 Armstrong’s own words: “*I sit on the Board . . . represent the [FRS]  
16 brand . . . speak to it . . . [I am the] spokesperson for [FRS products].*”<sup>10</sup>

17 26. Defendant FRS’s website touted Defendant Armstrong’s  
18 relationship with Defendant FRS as well as his use of FRS products stating  
19 that not only are FRS products “*endorsed by Lance Armstrong . . . [but]  
20 Lance’s relationship with FRS is more than an endorsement deal, it’s a  
21 partnership. . . . Lance has joined our Board of Directors and chosen FRS to  
22 be the exclusive beverage he represents worldwide.*”<sup>11</sup>

23 27. With Defendant Armstrong entrenched as a member of  
24 Defendant FRS’ management team and as its spokesperson, Defendants

25 <sup>9</sup> <http://www.adweek.com/news/advertising-branding/lance-armstrong-stars-frs-campaign-98960>

26 <sup>10</sup> <https://www.youtube.com/watch?v=hjcgGTV6IXI>

27 <sup>11</sup> <http://affiliate-marketing-forums.5staraffiliateprograms.com/affiliate-program-announcements/9476-frs-healthy-energy-drink-affiliate-program-up-22-a.html>;  
28 <http://www.frs.com/lance.html>



1 banked virtually their entire marketing and advertising campaign for FRS  
2 products on one concept: that the “*most important*” reasons to choose FRS  
3 products, as opposed to the many thousands of other energy and health  
4 supplements currently on the market, was because Defendant Armstrong  
5 purportedly relied on and regularly used *only* FRS products to obtain his  
6 incredible energy, speed, endurance and strength, and because Defendant  
7 Armstrong had won 7 Tour de France World Titles.

8 28. Defendants engaged in print<sup>12</sup>, internet<sup>13</sup> and video<sup>14</sup> (both  
9 television commercials and internet videos) to promote FRS products and,  
10 more significantly, their alleged connection with Defendant Armstrong’s  
11 athletic performance.

12 29. Defendant FRS’s growth and market-share exploded after its  
13 affiliation with Defendant Armstrong. In a 2009 article in AdWeek  
14 Magazine, the company claimed that its sales in 2008 were up 275% from  
15 the previous year and that similar growth was expected going forward.<sup>15</sup>

16 30. Simultaneously, during the Class Period, Defendant Armstrong—  
17 and his endorsers and supporters—vehemently denied that Defendant  
18

---

19 <sup>12</sup> See, e.g., Exhibits A- E;  
20 <http://www.businesswire.com/news/home/20100119007638/en/Lance-Armstrong%E2%80%99s-%E2%80%9CSecret-Weapon%E2%80%9D-Revealed-Advertising-Campaign>

21  
22 <sup>13</sup> See, e.g., <http://web.archive.org/web/20100224165607/http://www.frs.com/>  
23 <http://web.archive.org/web/20100307025511/http://www.frs.com/frs-latest-news>  
<http://www.teamradioshack.us/video-lance-armstrong-has-a-secret/>

24 <sup>14</sup> See, e.g., <https://www.youtube.com/watch?v=hjcgGTV6IXI>  
25 <http://youtu.be/-cXs4gaB1-A>  
26 <http://web.archive.org/web/20100115174720/http://www.youtube.com/user/TheFRSHealthyEnergy>

27 <sup>15</sup> [http://www.adweek.com/news/advertising-branding/lance-armstrong-stars-frs-](http://www.adweek.com/news/advertising-branding/lance-armstrong-stars-frs-campaign-98960)  
28 [campaign-98960](http://www.adweek.com/news/advertising-branding/lance-armstrong-stars-frs-campaign-98960)

1 Armstrong had ever used illegal substances, banned human growth  
2 hormones or performance-enhancing drugs.<sup>16</sup>

3 31. In reality, however, Defendants made misleading and false  
4 advertisements to market and brand FRS products, which could and did trick  
5 consumers into purchasing FRS products because of the illusory benefits  
6 “grounded in real science”. They believed FRS’ products claims provided  
7 by Defendant Armstrong, and from which they would similarly benefit.

8 32. In a televised interview with Oprah Winfrey that aired in January,  
9 2013, Defendant Armstrong finally admitted that, contrary to Defendants’  
10 prior claims and advertisements, his extra-ordinary strength, speed, energy,  
11 and endurance were unrelated to his use of FRS products. Instead, after  
12 years of vehement denials and persecution of his accusers, Defendant  
13 Armstrong admitted that over his entire athletic career, he had regularly used  
14 illegal substances, banned performance-enhancing drugs and human growth  
15 hormones in order to capture 7 Tour de France titles and further his fame and  
16 fortune.<sup>17</sup>

17 33. In fact, in an almost 1,000 page-long report using a combination  
18 of testimonies from 26 witnesses, financial statements, emails, lab results  
19 and other evidence, the *U.S. Anti-Doping Agency* stated publicly that, not  
20 only did Defendant Armstrong “dope,” but he also “*ran the most*  
21 *sophisticated, professionalized and successful doping program that*  
22 *[Cycling] sport has ever seen.*”<sup>18</sup>

23 34. Defendant Armstrong’s admission proved that, despite Defendant  
24 Armstrong’s and Defendants’ claims, Defendant Armstrong did not either  
25 win 7 Tour de France titles or exhibit the extra-ordinary strength, speed,

26  
27 <sup>16</sup> <http://chicago.cbslocal.com/2013/01/14/video-lance-armstrong-repeatedly-denies-doping-over-the-years/>

28 <sup>17</sup> [http://www.oprah.com/own\\_tv/onc/lance-armstrong-one.html](http://www.oprah.com/own_tv/onc/lance-armstrong-one.html)

<sup>18</sup> <http://cyclinginvestigation.usada.org/>

1 energy and endurance Defendants advertised and marketed during the Class  
2 Period as a result of his use of *only* FRS products. Instead, Defendant  
3 Armstrong's successes were the result of his systemic and illegal use of  
4 banned performance-enhancing drugs and human growth hormones.<sup>19</sup>

5 **B. Defendants' False and Misleading Advertising and**  
6 **Marketing**

7 35. As detailed herein, Defendants' marketing and advertising of  
8 Defendant Armstrong's accomplishments and his supposed use of only FRS  
9 products to possess his extra-ordinary athletic abilities were the dominant  
10 theme of Defendants' advertising and marketing.

11 36. Defendants' advertising and marketing of FRS products was at  
12 all times designed to cause consumers and the Class to base their decision to  
13 make an energy-product purchase on the assumption that the extraordinary  
14 results allegedly provided to Defendant Armstrong could be similarly  
15 obtained "by athletes or even non-athletes, for the young and for the old."<sup>20</sup>

16 37. To perpetrate this myth, Defendants falsely advertised and  
17 marketed Defendant Armstrong while drawing a comparison to the  
18 individual consumer. Indeed, as one magazine article noted, Defendant FRS  
19 was successful in drawing the parallel between Defendant Armstrong's  
20 abilities and FRS products, driving consumer purchases:

21 *"So when I saw Lance Armstrong pitching a new healthy energy"*  
22 *product called FRS, I ordered a few cases (\$36 for 15 cans) of the*  
23 *beverage. I figured if the world's strongest cardiovascular engine*  
24 *could use some legal cheating, maybe I could too."<sup>21</sup>*

25  
26  
27 <sup>19</sup> Id.

28 <sup>20</sup> <https://www.youtube.com/watch?v=hjcgGTV6IXI>

<sup>21</sup> <http://www.mensjournal.com/magazine/the-best-energy-supplement-ever-20120808>

1           38. Defendants’ advertisements and marketing throughout the Class  
2 Period to consumers and the Class, showcased Defendant Armstrong, along  
3 with the words “*7 Time Tour de France Winner*,” linking Defendant FRS to  
4 Defendant Armstrong’s ill-begotten and now-forfeited titles.<sup>22</sup> Indeed  
5 Defendants’ directly linked, advertised and marketed FRS products  
6 (including advertisements featured at the Tour de France itself, and on the  
7 Tour de France website) with the tagline: “*FRS Fuels Lance [to win] . . . 7*  
8 *Tour de Frances*.”<sup>23</sup>

9           39. Defendants’ advertisements and marketing throughout the Class  
10 Period to consumers and the Class, also promised similar results to  
11 consumers, encouraging them to consume FRS products to achieve the same  
12 energy and performance boosts that Defendant Armstrong allegedly received  
13 from FRS products.

14           40. Defendant Armstrong himself, knowing full-well that his  
15 achievements were fueled by his cheating and doping, encouraged the belief  
16 that FRS products were responsible for his feats. In Defendants’ press  
17 release dated January 19, 2010, Defendant Armstrong, speaking on  
18 Defendants’ behalf, falsely and misleadingly stated that: “**I need something**  
19 **that is going to give me maximum endurance . . . I rely on FRS because**  
20 **it helps give me an edge . . .**”<sup>24</sup>

21           41. In an advertisement for FRS products, Defendants also falsely  
22 stated that it was FRS’ products’-- not illegal substances, banned  
23 performance-enhancing drugs and human growth hormones – that was  
24 responsible for Defendant Armstrong’s superior performance and which gets

---

25 <sup>22</sup> See, e.g., Exhibit B;

26 <http://web.archive.org/web/20100805085940/http://www.frs.com/frs-lance-armstrong>.

27 <sup>23</sup> See Exhibit C;

28 <sup>24</sup> See Exhibit C; <http://www.businesswire.com/news/home/20100119007638/en/Lance-Armstrong%E2%80%99s-%E2%80%9CSecret-Weapon%E2%80%9D-Revealed-Advertising-Campaign>.

1 and keeps him going. Speaking as a corporate representative and while he  
2 was a corporate Director, Defendant Armstrong stated:

3 *“I believe in [FRS products]. . . You want something you drink*  
4 *and 15 minutes later you feel strong, and an hour later you feel*  
5 *strong. . . It’s something that when I looked at my performance*  
6 *on a day to day basis, I don’t need to go through my day*  
7 *constantly seeking another drink [other than FRS products]*  
8 *to get me going . . . ”*<sup>25</sup>

9 42. An advertisement by Defendant FRS also misleadingly quotes  
10 Defendant Armstrong as saying: *“I need something to keep me going. FRS*  
11 *[] has been the choice for me!”*<sup>26</sup>

12 43. A report by Defendant FRS further misleadingly quotes  
13 Defendant Armstrong as saying:

14 “My own experience [is] that [FRS] naturally enhances my  
15 energy” . . . said Lance Armstrong, seven time Tour de France  
16 winner and FRS board member. “As a dad and professional  
17 athlete, FRS Healthy Energy helps me keep up with my active  
18 lifestyle by sustaining my energy and enhancing my training  
19 and competitive efforts. FRS is a key part of my daily fitness  
20 routine.”<sup>27</sup>

21 44. Most recently, Defendants engaged in a powerful marketing  
22 campaign based on the assertion that *“Lance Armstrong Has a Secret.”* In  
23 those commercials, Defendants claimed that Defendant Armstrong’s *“Secret*  
24 *Weapon”* was FRS products and vividly showed Defendant Armstrong  
25 engaged in competition and training, supposedly fueled by FRS products and

26 \_\_\_\_\_  
27 <sup>25</sup> <https://www.youtube.com/watch?v=hjcgGTV6IXI>

28 <sup>26</sup> See Exhibit D.

<sup>27</sup> [http://web.archive.org/web/20100120005257/http://media.frsplus.com/news/releases/FRS\\_PressReleaseUnivOfSC\\_StudyUPDATED.pdf](http://web.archive.org/web/20100120005257/http://media.frsplus.com/news/releases/FRS_PressReleaseUnivOfSC_StudyUPDATED.pdf)

1 nothing more. These advertisements were featured by Defendants: (i) in  
2 print form; (ii) as billboards supplied by Defendants to retail cycling and  
3 sports stores; (iii) as parts of Defendants' viral internet campaign, including  
4 video advertisements on YouTube, Twitter, Facebook, FRS.com and other  
5 Tour de France Cycling team websites; (iv) in 30-second television  
6 commercials, which appeared on the leading sports-channels across the  
7 country, including ESPN and ESPN2; and (v) during live television-  
8 coverage of the Tour de France.<sup>28</sup>

9 45. At the same time, Defendant Armstrong himself reinforced and  
10 augmented the campaign by claiming that consumers should purchase FRS  
11 products because:

12 1. I sit on the Board. 2. I test and work with [FRS] products.  
13 I represent the brand . . . speak to it . . . [I am the] spokesperson  
14 for it . . . and 3. Most Importantly, I am a User [who] actively  
15 uses the product on a regular basis . . . If somebody said to me  
16 you can say one thing [about why to use FRS products, as  
17 opposed to the thousands of other energy and/or health items  
18 out there on the market] I'D SAY, 'I DRINK IT' WOULD BE  
19 THE MOST IMPORTANT THING.<sup>29</sup>

20 46. Defendants' aggressive marketing of Defendant Armstrong's  
21 successes and achievements worked. Consumers flocked in ever-increasing  
22 numbers to purchase FRS products because: (i) Defendant Armstrong won 7  
23

---

24 <sup>28</sup> See, e.g., Exhibit E;  
25 [http://www.businesswire.com/news/home/20100119007638/en/Lance-](http://www.businesswire.com/news/home/20100119007638/en/Lance-Armstrong%E2%80%99s-%E2%80%9CSecret-Weapon%E2%80%9D-Revealed-Advertising-Campaign)  
26 [Armstrong%E2%80%99s-%E2%80%9CSecret-Weapon%E2%80%9D-Revealed-](http://www.businesswire.com/news/home/20100119007638/en/Lance-Armstrong%E2%80%99s-%E2%80%9CSecret-Weapon%E2%80%9D-Revealed-Advertising-Campaign)  
27 <http://web.archive.org/web/20100224165607/http://www.frs.com/>; [http://youtu.be/-](http://youtu.be/-cXs4gaB1-A)  
28 [cXs4gaB1-A](http://youtu.be/-cXs4gaB1-A)

<sup>29</sup> <https://www.youtube.com/watch?v=hjcgGTV6IXI>

1 Tour de France world titles, more than any human on earth; and (ii)  
2 Defendant Armstrong only used FRS products, not illegal substances, to  
3 achieve his successes and athletic performance. The fact that Defendants'  
4 deceptive and misleading marketing and advertising were likely to drive  
5 consumer behavior is proven by the incredible increases in market-share  
6 obtained by Defendant FRS while relying almost exclusively on Defendant  
7 Armstrong to sell FRS products.

8 47. In sum, consumers, including Plaintiff and the Class,  
9 unknowingly relied on Defendants' false advertising and marketing in their  
10 purchase of FRS products over the thousands of other health and energy  
11 products on the market. But for Defendants' false advertising and marketing  
12 described herein, consumers, including Plaintiff and the Class, would not  
13 have purchased FRS products or would certainly have paid less for FRS  
14 products, which allowed Defendants to wrongfully siphon millions of dollars  
15 from the Class.

16 **C. Reasonable Reliance on Defendants' Representations**

17 48. Plaintiff read and relied on Defendants' advertisements and  
18 marketing in conjunction with his purchase of FRS products, detailed herein.

19 49. Specifically, Plaintiff believed and relied on Defendants'  
20 misrepresentations, false advertising and marketing, and that reliance drove  
21 his decision to purchase FRS products as opposed to the thousands of other  
22 energy and health products on the market and, in some instances, as opposed  
23 to purchasing no similar product at all.

24 50. As a result of Defendants' misrepresentations and false  
25 advertising and marketing, Plaintiff and other consumers suffered injury in  
26 fact and lost money or property.

27 51. Specifically, consumers paid for FRS products which they  
28 believed had enabled Defendant Armstrong to possess the extra-ordinary

1 speed, endurance, strength and energy to win 7 Tour de France Titles. But,  
2 as is now known, by virtue of Defendants' misleading advertising, Plaintiff  
3 and the Class received products that could *not* and did *not* actually enable  
4 Defendant Armstrong to win 7 Tour de France titles or possess his extra-  
5 ordinary energy, speed, endurance, and strength.

6 52. Defendants' misrepresentations and omissions were material to  
7 Plaintiff and other consumers. Had the Class members known that, contrary  
8 to Defendants' false claims to the public, Defendant Armstrong's victories  
9 and abilities were fueled by cheating and illegal use of banned substances,  
10 they would not have purchased or would have paid less money to  
11 Defendants for FRS products.

12 53. Indeed, the influence of Defendant Armstrong's endorsement  
13 was described in *Men's Journal Magazine* in an article in which the writer  
14 expressly ties his decision to purchase FRS products to Defendants' false  
15 advertising:

16 Lance Armstrong swears by a previously obscure antioxidant  
17 for a boost of energy. . . . Like anyone with kids [and] long  
18 work weeks . . . and an active lifestyle, I could really use some  
19 extra get-up-and go . . . **So when I saw Lance Armstrong**  
20 **pitching [FRS products] . . . I ordered a few cases . . . I**  
21 **figured if the world strongest cardiovascular engine could**  
22 **use some *legal* cheating, maybe I could too.**<sup>30</sup>

23 ///

24 ///

25  
26  
27 \_\_\_\_\_  
28 <sup>30</sup> <http://www.mensjournal.com/magazine/the-best-energy-supplement-ever-20120808>



1           54. Plaintiff and other members of the Class made their decisions to  
2 purchase FRS products for the same reason: if Defendant Armstrong used  
3 FRS products to achieve his successes, it must be worth the money.

4           55. Accordingly, Plaintiff and other consumers suffered injury in fact  
5 and loss of money in the amount of the entire purchase price of each FRS  
6 product they bought or, alternatively, the price differential between the  
7 actual worth of the products as advertised versus sold. Plaintiff read and  
8 relied on Defendants' misrepresentations in making his decision to purchase  
9 FRS products as opposed to the thousands of other energy and health  
10 products currently on the market—they would not have otherwise purchased  
11 FRS products.<sup>31</sup>

12 **V. CLASS ACTION ALLEGATIONS**

13           56. Plaintiff bring this action as a class action on behalf of himself  
14 and the Class consisting of:

15           All persons who, during the Class Period, purchased any FRS  
16 products sold by Defendants based in whole or in part on  
17 Defendants' deceptive Lance Armstrong-based marketing  
18 campaign.

19           57. The Class satisfies the numerosity, commonality, typicality,  
20 adequacy, predominance and superiority requirements of Federal Rule of  
21 Civil Procedure 23(a).

22           58. Plaintiff reserves the right to amend or modify the Class  
23 definitions with greater specificity or further division into subclasses or  
24 limitation to particular issues after discovery.

25 ///

26 \_\_\_\_\_  
27 <sup>31</sup> This fact was confirmed during investigations conducted by Defendants' counsel,  
28 which confirmed that consumer purchases of FRS products were driven largely, if not  
exclusively, by Defendants' advertisements linking Armstrong and his accomplishments  
and abilities to the Armstrong's use of FRS products.

1           59. The members of the Class are so numerous that joinder of all  
2 members is impracticable. Although the precise number of Class members  
3 is unknown to Plaintiff at this time and can be determined only by  
4 appropriate discovery, it is reasonably estimated that the Class consists of at  
5 least tens of thousands, or hundreds of thousands, or millions of members  
6 who are geographically dispersed throughout the country.

7           60. Because Plaintiff is a purchasers of FRS products and has been  
8 subject to Defendants' systematic and misleading course of conduct,  
9 policies, and advertising which did trick, mislead and significantly confuse  
10 consumers, Plaintiff is a members of the Class and their claims are typical of  
11 the claims of the members of the Class. The harm suffered by Plaintiff and  
12 all other Class members was and is caused by the same misconduct by  
13 Defendants.

14           61. Plaintiff will fairly and adequately represent and protect the  
15 interests of the Class, in that Plaintiff has no interests antagonistic to, nor in  
16 conflict with, the Class. Plaintiff has retained competent counsel,  
17 experienced in consumer and commercial class action litigation, to further  
18 ensure such protection and who intend to prosecute this action vigorously.

19           62. A class action is superior to other available methods for the fair  
20 and efficient adjudication of this controversy. Because the monetary  
21 damages suffered by individual Class members are relatively small, the  
22 expense and burden of individual litigation make it impossible for individual  
23 Class members to seek redress for the wrongful conduct asserted herein. If  
24 Class treatment of these claims was not available, Defendants would likely  
25 continue their wrongful conduct, would unfairly retain many hundreds of  
26 thousands or millions of dollars in improperly obtained revenues, or would  
27 otherwise escape liability for their wrongdoing as asserted herein.

28

1           63. Common questions of law and fact exist as to all members of the  
2 Class which predominate over any questions that may affect individual Class  
3 members. Among the questions of law and fact common to the Class  
4 include the following:

- 5           a. whether Defendants' deceptive marketing campaign to  
6           caused consumers to purchase FRS products;
- 7           b. whether Defendants violated California Business and  
8           Professions Code 17500, *et seq*;
- 9           c. whether Defendants violated California Business and  
10          Professions Code 1700, *et seq.*; and
- 11          d. the appropriate measure of damages, restitution, pre- and  
12          post-judgment interest, and/or other relief to which  
13          Plaintiff and the Class members are entitled.

14           64. The Class is readily definable, and prosecution of this action as a  
15 Class Action will reduce the possibility of repetitious litigation. Information  
16 concerning FRS products sold by Defendants is available from Defendants'  
17 books and records. Plaintiff knows of no difficulty which will be  
18 encountered in the management of this litigation which would preclude its  
19 maintenance as a Class Action.

20           65. The prosecution of separate actions by individual members of the  
21 Class would run the risk of inconsistent or varying adjudications, which  
22 would establish incompatible standards of conduct for the Defendant in this  
23 action. Prosecution as a class action will eliminate the possibility of  
24 repetitious litigation.

25           66. The Class is readily definable. Information concerning the FRS  
26 products sold by Defendants is available from many sources, including  
27 Defendants' books and records.

1           67. Defendants have acted and/or refused to act on grounds generally  
2 applicable to the Class, thereby making appropriate final injunctive relief or  
3 corresponding declaratory relief with respect to the Class as a whole.

4 **VI. CAUSES OF ACTION**

5                           **FIRST CAUSE OF ACTION**

6                           **(California False Advertising Law –**  
7                           **Cal. Bus. & Prof. Code § 17500, *et seq.*)**

8           68. Plaintiff incorporate by reference and reassert all previous  
9 paragraphs.

10           69. Defendants engaged in unlawful conduct under California  
11 Business & Professions Code § 17500, *et seq.*, by representing to consumers  
12 that Defendant Armstrong’s “secret weapon” in pursuit of his athletic  
13 achievements was his use of FRS products, when, in fact, as was known by  
14 Defendant Armstrong—a corporate Director and co-investor in Defendant  
15 FRS along with Defendant FRS—the true secret weapon was Defendant  
16 Armstrong’s use of illegal performance-enhancing drugs.

17           70. Plaintiff and the Class reasonably relied upon Defendants’  
18 representations and/or omissions made in violation of California Business &  
19 Professions Code § 17500, *et seq.*

20           71. As a direct and proximate result of Defendants’ violations,  
21 Plaintiff would not have otherwise purchased FRS products, or would have  
22 purchased fewer of them, and therefore, suffered injury in fact and lost  
23 money.

24           72. Plaintiff is informed and believes, and on that basis alleges, that  
25 as a further direct and proximate result of the advertising described above,  
26 Defendants have received from members of the general public, including the  
27 Class, money Defendants obtained through their violation of California  
28

1 Business & Professions Code § 17500, *et seq.*, which Defendants continue to  
2 hold for Defendants' sole benefit.

3 73. Accordingly, Plaintiff, on behalf of himself and all others  
4 similarly situated, seeks equitable relief in the form of an order requiring  
5 Defendants to refund Plaintiff and the Class members all monies they paid  
6 for FRS products, and injunctive relief in the form of an order prohibiting  
7 Defendants from improperly manipulating celebrity athlete endorsements to  
8 tie the phony athletic achievements of the endorser to the use of FRS  
9 products.

10 **SECOND CAUSE OF ACTION**

11 **(California Unfair Competition Law –**  
12 **Cal. Bus. & Prof. Code § 17200, *et seq.*)**

13 74. Plaintiff incorporates by reference and reassert all previous  
14 paragraphs.

15 75. Defendants engaged in unlawful conduct under California  
16 Business & Professions Code § 17200, *et seq.*, by representing to consumers  
17 Defendant Armstrong's "secret weapon" in pursuit of his athletic  
18 achievements was his use of FRS products, when, in fact, as was known by  
19 Defendant Armstrong—a corporate Director and co-investor with  
20 Defendants—the true secret weapon was Defendant Armstrong's use of  
21 illegal performance-enhancing drugs.

22 76. Defendants' conduct is unlawful in that it violates the False  
23 Advertising Law, California Business & Professions Code § 17500, *et seq.*,  
24 and Federal Trade Commissions' *Guides Concerning the Use of*  
25 *Endorsements and Testimonials in Advertising*, which states that  
26 "[e]ndorsements must reflect endorser's general views and must not contain  
27 any express/implied representation that would be misleading if made by the  
28

1 advertiser. Advertisers can be liable for misrepresentations and for failure to  
2 disclose material connections, as can endorsers."

3 77. Defendants' conduct is unfair in that it offends established public  
4 policy and/or is immoral, unethical, oppressive, unscrupulous,  
5 unconscionable and/or substantially injurious to Plaintiff and the Class  
6 members. The harm to Plaintiff and the Class members arising from  
7 Defendants' conduct outweighs any legitimate benefit Defendants derived  
8 from the conduct. Defendants' conduct undermines and violates the stated  
9 spirit and policies underlying the False Advertising Law, and the FTC's  
10 *Guides Concerning the Use of Endorsements and Testimonials in*  
11 *Advertising*, as asserted herein.

12 78. Defendants' misrepresentations and omissions are likely to  
13 mislead a reasonable consumer.

14 79. Plaintiff relied on Defendants' misrepresentations and omissions.

15 80. As a direct and proximate result of Defendants' violations,  
16 Plaintiff would not have otherwise purchased FRS products, or would have  
17 paid less, and therefore, suffered injury in fact and lost money.

18 81. Plaintiff, on behalf of himself and the Class members, seeks  
19 restitution of monies they paid for FRS products. Additionally, Plaintiff  
20 seeks equitable and injunctive relief on behalf of himself and Class members  
21 pursuant to Cal. Business & Professions Code § 17203.

22 **THIRD CAUSE OF ACTION**  
23 **(Breach of Express Warranty)**

24 82. Plaintiff incorporates by reference and reassert all previous  
25 paragraphs.

26 83. Defendants expressly warranted, among other things, that FRS  
27 products were Defendant Armstrong's "secret weapon" in pursuit of his  
28

1 athletic achievements when, in fact, Defendant Armstrong's true secret  
2 weapon was his regular use of illegal performance enhancing drugs.

3 84. Defendants' warranties constitute an affirmation of fact that  
4 became part of the basis of the bargain and created an express warranty that  
5 FRS products would and could conform to the stated promises.

6 85. All conditions precedent to Defendants' liability under this  
7 contract have been performed by Plaintiff and the Class.

8 86. Defendants' breached the terms of this contract, including the  
9 express warranties, with Plaintiff and the Class, by not providing a product  
10 that conformed or could possibly conform to the stated promises, as  
11 advertised by Defendants.

12 87. As a result of Defendants' breach of its contract, Plaintiff and the  
13 Class have been damaged in the amount of the price of the Product they  
14 purchased.

15 **PRAYER FOR RELIEF**

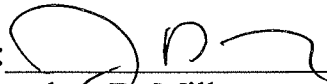
16 **WHEREFORE**, Plaintiff, on behalf of himself and the Class, prays  
17 for relief as follows:

- 18 A. For an order that this action may be maintained as a Class  
19 Action under Rule 23 of the Federal Rules of Civil Procedure,  
20 that Plaintiff be appointed Class representatives for the Class,  
21 and that Plaintiff's counsel be appointed as counsel for the  
22 Class;
- 23 B. For a permanent injunction against Defendants, and each of  
24 them, restraining, preventing and enjoining Defendants from  
25 engaging in the illegal practices alleged;
- 26 C. For an order requiring Defendants, and each of them, to  
27 disgorge the profits they wrongfully obtained through the use of  
28 their illegal practices;

- 1 D. For an order requiring Defendants, and each of them, to pay
- 2 restitution to Plaintiff and all members of the Class.
- 3 E. Actual damages;
- 4 F. Punitive damages;
- 5 G. For an award of attorneys' fees;
- 6 H. For an award of the costs of suit incurred herein, including
- 7 expert witness fees;
- 8 I. For an award of interest, including prejudgment interest, at the
- 9 legal rate, and;
- 10 J. For such other and further relief as the Court deems necessary
- 11 and appropriate.

12 DATED: February 27, 2013.

Respectfully submitted,

13 By: 

14 Jonathan D. Miller  
15 Holly C. Blackwell  
16 NYE, PEABODY, STIRLING, HALE,  
& MILLER, LLP  
17 33 West Mission, Suite 201  
18 Santa Barbara, CA 93101  
19 Tel: (805) 963-2345  
20 Fax: (805) 563-5385

21 Benjamin J. Sweet (*Pro Hac Pending*)  
22 DEL SOLE CAVANAUGH STROYD,  
LLC  
23 200 First Avenue, Suite 300  
24 Pittsburgh, PA 15222  
25 (412) 261-2393  
26 Fax: (412) 261-2110

27 *Proposed Lead Counsel for Individual*  
28 *and Representative Plaintiff Robert*  
*Martin and the Proposed Class*



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PLAINTIFF'S JURY DEMAND**

Plaintiffs Robert Martin, on behalf of himself and all others similarly situated hereby demands trial by jury of all claims so triable.

DATED: February 27, 2013.

By:  \_\_\_\_\_

Jonathan D. Miller  
Holly C. Blackwell  
NYE, PEABODY, STIRLING, HALE,  
& MILLER, LLP  
33 West Mission, Suite 201  
Santa Barbara, CA 93101  
Tel: (805) 963-2345  
Fax: (805) 563-5385

Benjamin J. Sweet (*Pro Hac Pending*)  
DEL SOLE CAVANAUGH STROYD,  
LLC  
200 First Avenue, Suite 300  
Pittsburgh, PA 15222  
(412) 261-2393  
Fax: (412) 261-2110

*Proposed Lead Counsel for Individual  
and Representative Plaintiff Robert  
Martin and the Proposed Class*

# EXHIBIT A

## FRS Healthy Energy - FREE TRIAL Review

by [UR What U Eat](#)  
1 Follower

### FRS Healthy Energy - The start of a healthy revolution.

We've all seen Lance Armstrong and the 7 Tour de Frances that he won - and I've wondered how he did - but always commended him for overcoming cancer numerous times. I think that it's pretty simple, he makes healthy choices everyday; you know, the one where you get the craving when you go by that favorite fast food joint and you give in, rather than making something healthy at home. Well this is one of the best healthy choices that I've made in a while.



"FRS is a part of my daily routine. Though I have retired from cycling, my days, like the days of many other people are strenuous and I need something to keep me going. FRS Healthy Energy has been the choice for me."

LANCE ARMSTRONG  
7 Time Tour de France Winner

Lance Armstrong has partnered with FRS Healthy Energy - if it's good enough for Lance, it's good enough for me!

Lance Armstrong partnered with FRS Healthy Energy and has started to turn some heads with it. FRS is one of those healthy choice opportunities you'll be glad you made - and the best part is that it tastes great.

### I don't have time to be tired.

If you're anything like me, you are up all hours of the night trying to get things done that you just don't have time for during the day, because of work or other obligations; there's just not enough time in a day. So in order for me to be productive and have the energy I needed, as well as the mental focus, I found myself resorting to HIGH calorie, HIGH sugar energy drinks (Monster & Red Bull to name a couple).

After taking these, there's no doubt that I felt awake, but both of them left me feeling jittery and made my heart feel like it was about to beat out of my chest (can't be healthy for you), so I began searching for a healthy energy drink alternative.

### ...and FRS Healthy Energy came to the rescue.

The first thing I thought when I came across this product, "Sure, a HEALTHY energy drink, like there is such a thing." But with the 2 week Free Trial offer



This is the FRS Healthy Energy Free Trial kit that I received.

### FRS Free Trial

- FRS Healthy Energy Free Trial  
FRS Healthy Energy is a energy system that is full of Antioxidants that can reduce Free Radicals and can be used as an Antioxidant Supplement. Learn all

# EXHIBIT B



**FRS**  
HEALTHY KIDNEY

**TIRED OF BEING TIRED?**



**FRS**  
HEALTHY KIDNEY

**Lance Armstrong**  
7-time Tour de France Winner

**TRY FRS TODAY ▶**

# Tired of Being Tired?

Fight Fatigue and Support Immune System



Try It Free\*

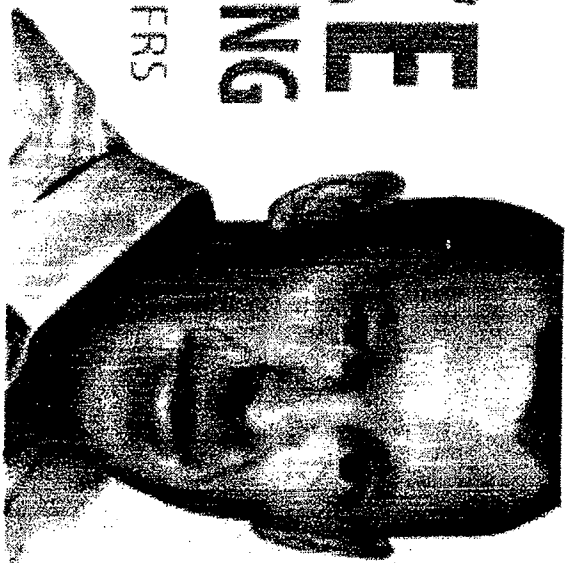


Lance Armstrong  
7-time Tour de France Winner

**FRS**  
Healthy Energy

# LANCE ARMSTRONG

PARTNERS WITH FRS



"FRS is a part of my daily routine. Though I have retired from cycling, my days, like the days of many other people are strenuous and I need something to keep me going. FRS Healthy Energy has been the choice for me."

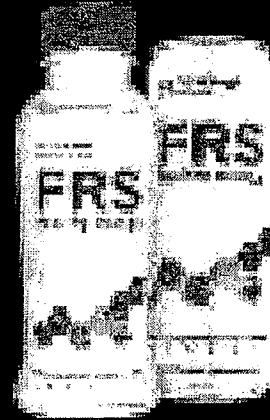
**LANCE ARMSTRONG**

7 Time Tour de France Winner

Advertisement

# Tired of Being Tired?

Fight Fatigue and Support Immune System



**Try It Free\***

FRS healthy energy

**Lance Armstrong**

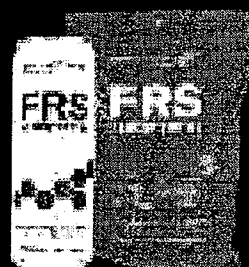
7x time Tour de France Winner





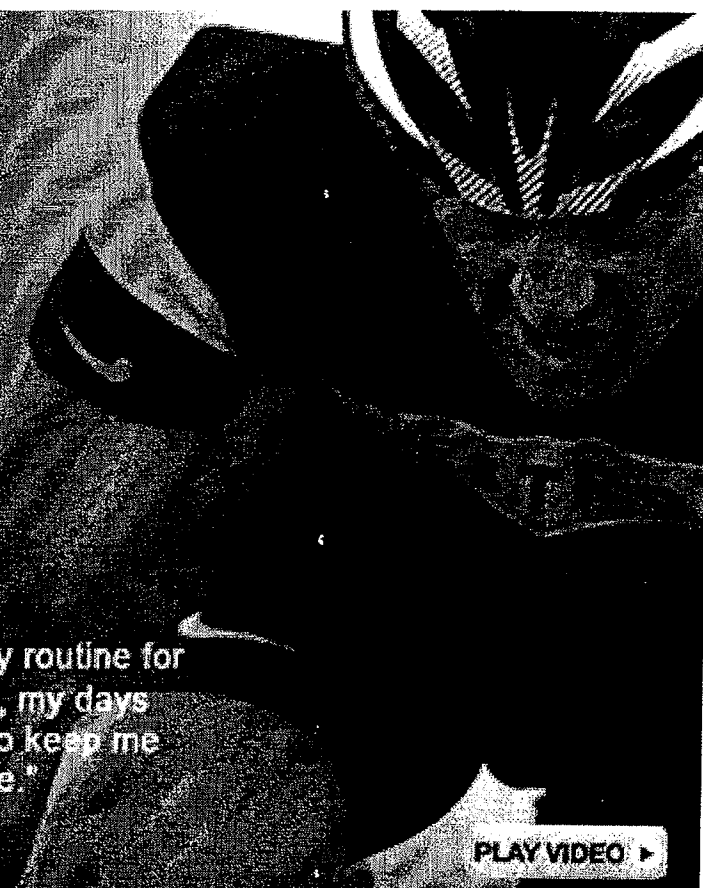
**Lance Armstrong**  
7-time Tour de France Winner

**TIRED OF BEING  
TIRED?**



**TRY FRS TODAY ▶**

**FRS™**  
HEALTHY ENERGY™



**MORE GAME  
MORE PUSH  
MORE HUSTLE  
MORE PLAY  
MORE REPS  
MORE DRIVE**

"FRS Healthy Energy has been a part of my daily routine for years. Now that I'm training professionally again, my days are especially strenuous and I need something to keep me going. FRS is the sustained energy choice for me."

LANCE ARMSTRONG  
SEVEN-TIME TOUR DE FRANCE WINNER

[PLAY VIDEO ▶](#)

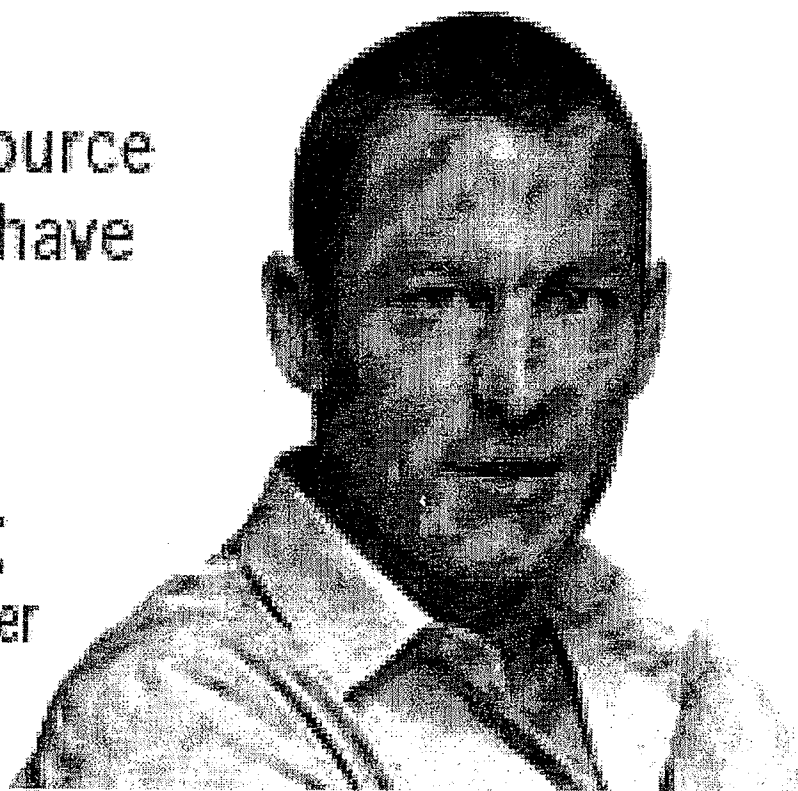
## **FRS<sup>®</sup> HEALTHY ENERGY<sup>®</sup>**

**FRS HAS MORE THAN A FEW FAMOUSLY ATHLETIC FANS, PEOPLE WHO CONSTANTLY PUSH TO GET MORE OUT OF THEMSELVES. AND WHILE IT'S MADE FOR ANYONE LOOKING TO DO MORE AND GO FURTHER, SOMETIMES IT'S NICE TO SEE HOW OTHERS ARE USING FRS TO THEIR ADVANTAGE. ATHLETES LIKE LANCE ARMSTRONG, HIS STRENGTH AND CONDITIONING COACH PETER PARK, PRO-BASKETBALL CHAMPION DEREK FISHER, AND PEAK PERFORMANCE PROJECT FOUNDER MARCUS ELLIOTT.**

"I need a healthy source  
of energy with all I have  
going on, I make it  
happen with FRS"

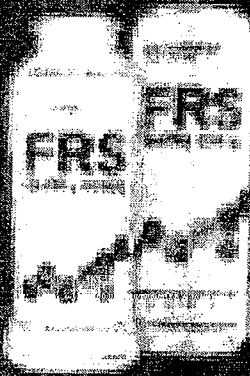
**Lance Armstrong**

7 Time Tour de France Winner



ADVERTISEMENT

Tired Of Being  
**Tired?**



Try It Free

**FRS**  
healthy energy

Lance Armstrong

**FRS**  
healthy energy



**LANCE ARMSTRONG**

**TIRED  
OF  
BEING  
TIRED?**



**RISK FREE TRIAL** ▶

# Tour de France 2009

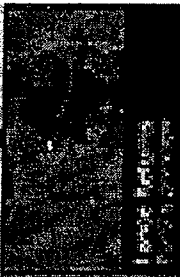
TIP STORIES

TIPS FROM THE



## Lance In France, Part II

Lance Armstrong's first race here is about to be his toughest yet. But what is the secret to his success? Here are some tips from the man who has won the Tour de France seven times.



Lance Armstrong



Lance Armstrong



Lance Armstrong



Lance Armstrong

## TOUR DE FRANCE TRACKER



Get all the information you need on every rider and team, plus real-time results from every stage of the 2009 Tour de France, at [TourTracker.com](http://TourTracker.com)

## TIRED OF BEING TIRED?

FOOT FATIGUE AND SUPPORT MACHINE SYSTEM



EXPERIENCE THE DIFFERENCE

FRS

TRY IT NOW!

CONCRETE BOTTLE TO

- \* MUSCLE SUPPORT
- \* FOOTWEAR PROTECTION
- \* IMPROVED EFFICIENCY

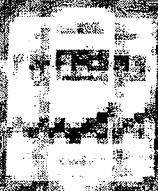


## TOUR DE FRANCE STAGES - 3,100 MILES

Stage 1 - London

Stage 2 - London





**DON'T CRASH.**  
DRINK FRS HEALTHY ENERGY

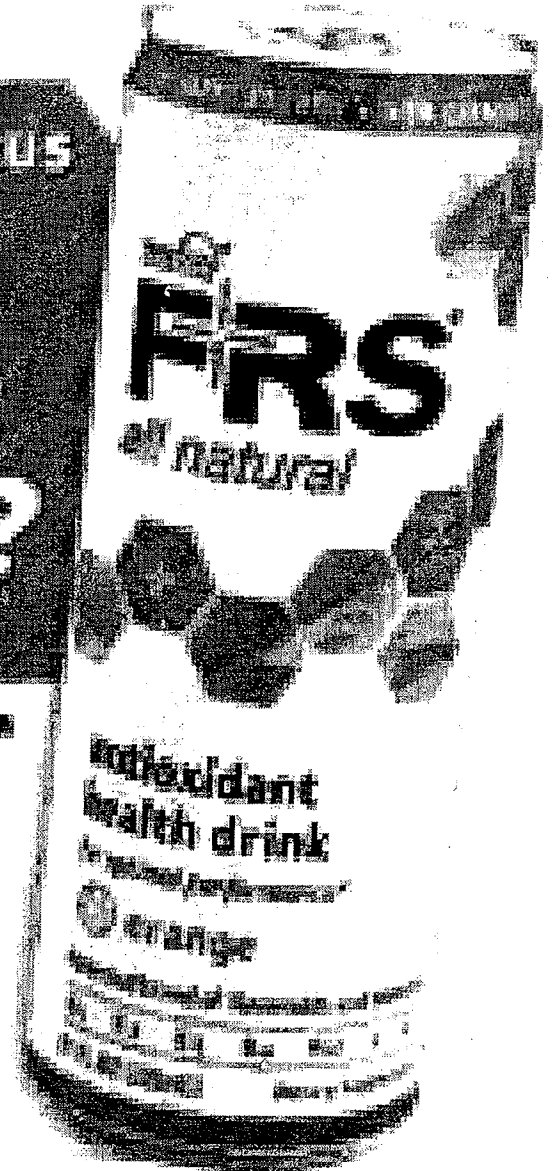
© 2001 FRS. ALL RIGHTS RESERVED.

Health Energy Focus

What  
Drives  
You?



[www.frs.com](http://www.frs.com)





LANCE ARMSTRONG

TIRED OF BEING TIRED?



FRS

THE FINE HOME

# FRS

HEALTHY AND ACTIVE

LIANCE AMBASSADOR

TIM TROSKO

JORDAN BOLLINO

CHESTER TUMPKER

BOBBIEN BOND

EXHAUSTIVE SPORTS

WITCH SPORTS

TRAINERS

NUTRITIONIST

SCIENCE OF QUERCETIN

FRS ATHLETIC

PACKETS & SHIP

MY STORY

COMPANY

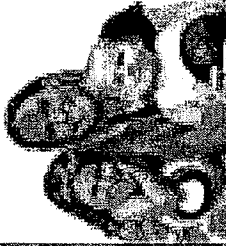
SEARCH

MY ACCOUNT

## STORE LOCATOR

ENTER YOUR ZIPCODE

### FRS SPONSORS MOMS SIGN UP FOR FIRST ACCESS



### TRY FRS FREE



LEARN HOW TO USE FRS

## facebook



# FRS ATHLETIC

### Fueled by Quercetin™

More and more world-class athletes are signing on to use FRS every day for the same reasons everyday athletes make it a regular part of their workout routine: it helps you do more and go farther. The proof is in the can, now seen everywhere from the courts of professional basketball to the tracks of IndyCar races, from the sands of Manhattan Beach to the slopes of Mont Ventoux. Take a look at who's using FRS these days, and why.

# Tired of Being Tired?

Fight Fatigue and Support Immune System



Lance Armstrong



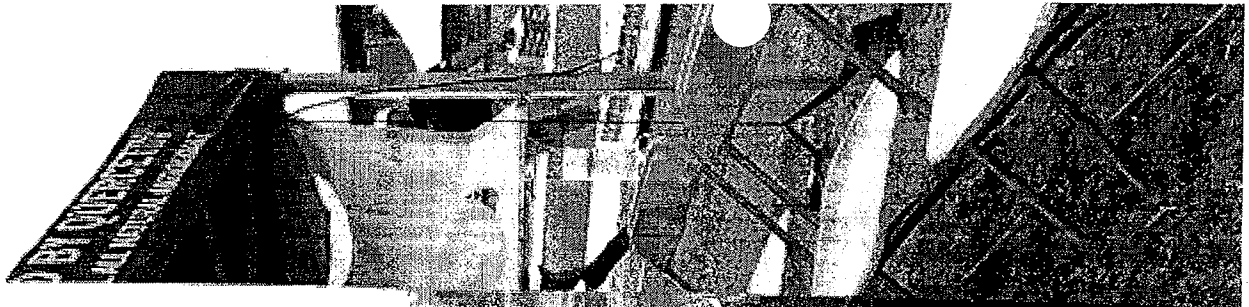
Try It Free\*

FRS healthy energy

# EXHIBIT C

# ERLENZ

POWERED BY QUERCETIN  
FOR THE MOST ENDURANCE



POWERED BY QUERCETIN  
FOR THE MOST ENDURANCE



STINGER



# EXHIBIT D



January 19, 2010 05:27 PM Eastern Time

## Lance Armstrong's "Secret Weapon" Revealed in New FRS Healthy Energy Advertising Campaign

FOSTER CITY, Calif.--(BUSINESS WIRE)--Seven-time Tour de France winner Lance Armstrong and The FRS Company have joined forces to create an exciting new advertising campaign that reveals his secret weapon...FRS® Healthy Energy®. Fueled by Quercetin™, a powerful antioxidant found naturally in apple skins, grapes, berries and red wine. With these new ads, Lance Armstrong and FRS will spread the word about the benefits of quercetin and FRS drinks and chews.

"We're thrilled to be teaming up with Lance to let people know that quercetin provides a safe and natural way to boost energy and endurance," said Simon Goode, Vice President of Marketing at The FRS Company, a developer and distributor of sustained energy products.

"Sugar and caffeine just aren't going to do it. I rely on FRS because it helps give me an edge, in a healthy way."

The "Lance Armstrong Has a Secret" ad campaign captures Armstrong's passion for training and gives viewers an up-close look at his Austin, Texas ranch, including his gym and bicycle garage. Directed by Brian Beletic, one of the most exciting and successful commercial and music video directors working today, the ads are engaging, powerful, humorous and memorable. Beletic's previous work includes commercials for Adidas, Dodge, Coca-Cola, Sprint and Reebok, as well as music videos for top recording artists such as the Black Eyed Peas and Fat Boy Slim.

The 30-second ad and six 10-second spots begin airing this week on a variety of sports programs on ESPN, ESPN2, and other sports channels, in addition to heavy general market schedules in San Francisco and San Diego. The ads will also air on VERSUS TV during its Tour Down Under coverage on January 17 – 24. The launch of the new ads was preceded by a two-week viral campaign of six 10-second teasers that appeared on YouTube, Twitter, Facebook and FRS.com. The new ads also can be viewed at FRS.com. Additional media flights are planned for later in the year.

"My daily off-season training schedule is intense—cycling, weight training, running and swimming. I need something that is going to give me maximum endurance to help me get through it all," said Lance Armstrong, who serves on the FRS Board of Directors. "Sugar and caffeine just aren't going to do it. I rely on FRS because it helps give me an edge, in a healthy way."

Quercetin has been shown in clinical studies to deliver sustained energy, help promote improved fitness and support overall health. Emerging scientific research suggests that quercetin mimics the effects of exercise by enhancing the production of the body's mitochondria, the energy-producing units in cells.

### About The FRS Company

The FRS Company produces and distributes its FRS Healthy Energy products in a variety of formulations -- ready-to-drink cans, drink concentrates, soft chews, and powdered drink mixes -- to suit customers' needs. All FRS Healthy Energy products contain a patented mix containing the highest purity quercetin available (QU995™), green tea extract and essential vitamins. FRS single-serving cans and select additional products are currently available through GNC and Vitamin Shoppe stores nationwide, in a wide array of grocery, specialty and bike stores and online at Amazon.com and other online retailers. Customers can visit FRS.com to purchase online or to locate the nearest retailers. Ten cents of every case of FRS® cans sold goes to the Lance Armstrong Foundation. Similar payments are also made on cases sold of all other FRS product formats.

Note to editors and producers: B-roll footage of Lance Armstrong engaged in a variety of training activities, and of FRS Healthy Energy products, is available upon request.

### Contacts



# EXHIBIT E

# LANCE ARMSTRONG

PARTNERS WITH FRS



"FRS is a part of my daily routine. Though I have retired from cycling, my days, like the days of many other people are strenuous and I need something to keep me going. FRS Healthy Energy has been the choice for me."

LANCE ARMSTRONG

7 Time Tour de France Winner

# EXHIBIT F



LANCE

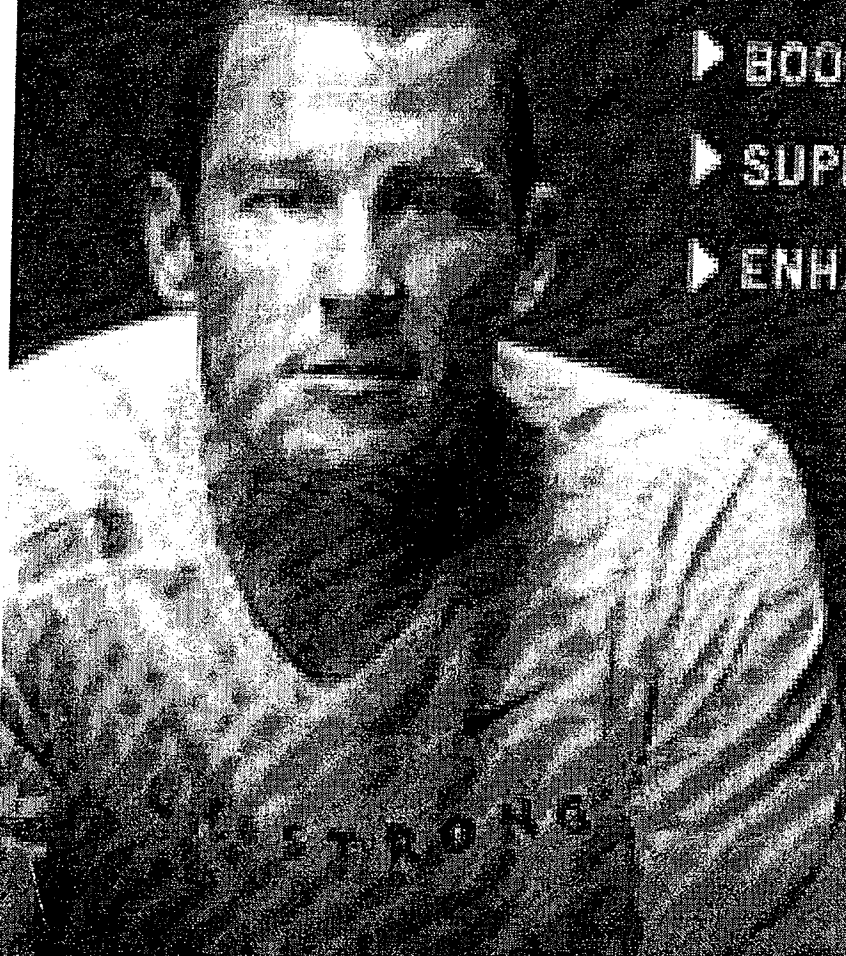
ARMSTRONG

ASBESTOS

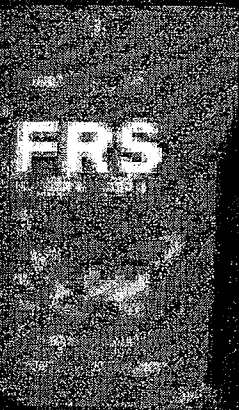
RS

# LANCE'S SECRET WEAPON

UNLOCK AND SUSTAIN YOUR NATURAL ENERGY



- ▶ BOOST ENERGY
- ▶ SUPPORT IMMUNE SYSTEM
- ▶ ENHANCE FITNESS



**TRY FRS TODAY**

**LANCE ARMSTRONG**

**FRS HEALTHY ENERGY**

# LANCE'S SECRET WEAPON

THE ONLY SUPPLEMENT THAT CAN HELP YOU



• BEST TASTE

• SUPPORTS MUSCLE GROWTH

• ENHANCES FITNESS



FREE TRIAL

FREE TRIAL

Click Here To Get More  
Information On The Free Trial

# TRIGON

Click Here To Get More  
Information On The Free Trial

Team RadioShack Cycling News Team RadioShack Cycling Fan Site

Search

- [Home](#)
- [News](#)
- [Roster](#)
- [Videos](#)
- [Polls](#)
- [Gallery](#)
- [Advertise](#)
- [Posts](#)
- [Comments](#)

## Video: Lance Armstrong Has A Secret

Published: July 17, 2010 Posted in: Videos



• [Comments \[4\]](#)

• [Share |](#)

0

• [Discuss in Forums](#)

Translate →

Lance Armstrong has a secret weapon. FRS Healthy Energy fueled by Quercetin is sustained energy for Lance Armstrong and everything he does.

- [Receive The Latest News by Email](#)

Insert your email  [Go](#)  
 Frequent  or Weekly   
 14 [Find us on](#)  
[Facebook](#) [Twitter](#)

Stop waiting. Start dating.  
 MatureDatingOnly.com  
[match me!](#)

**HAVEN'T YOU GIVEN LONELINESS A FAIR TRY**

Ads By AdWager Ad Network

kindle fire

Movies, web, apps, reading, & more

Only \$159

> [Order now](#)

- [We are Looking for Writers](#)

We are looking for people who want to write articles regarding Team RadioShack and its riders. [Read more...](#)

Levi Leipheimer Recommends

**RoadII**  
 Be seen reading

[Get Your Free Trial Today](#)



January 19, 2010 05:27 PM Eastern Time

## Lance Armstrong's "Secret Weapon" Revealed in New FRS Healthy Energy Advertising Campaign

FOSTER CITY, Calif.--(BUSINESS WIRE)--Seven-time Tour de France winner Lance Armstrong and The FRS Company have joined forces to create an exciting new advertising campaign that reveals his secret weapon...FRS® Healthy Energy®. Fueled by Quercetin™, a powerful antioxidant found naturally in apple skins, grapes, berries and red wine. With these new ads, Lance Armstrong and FRS will spread the word about the benefits of quercetin and FRS drinks and chews.

"We're thrilled to be teaming up with Lance to let people know that quercetin provides a safe and natural way to boost energy and endurance," said Simon Goode, Vice President of Marketing at The FRS Company, a developer and distributor of sustained energy products.

**"Sugar and caffeine just aren't going to do it. I rely on FRS because it helps give me an edge, in a healthy way."**

The "Lance Armstrong Has a Secret" ad campaign captures Armstrong's passion for training and gives viewers an up-close look at his Austin, Texas ranch, including his gym and bicycle garage. Directed by Brian Beletic, one of the most exciting and successful commercial and music video directors working today, the ads are engaging, powerful, humorous and memorable. Beletic's previous work includes commercials for Adidas, Dodge, Coca-Cola, Sprint and Reebok, as well as music videos for top recording artists such as the Black Eyed Peas and Fat Boy Slim.

The 30-second ad and six 10-second spots begin airing this week on a variety of sports programs on ESPN, ESPN2, and other sports channels, in addition to heavy general market schedules in San Francisco and San Diego. The ads will also air on VERSUS TV during its Tour Down Under coverage on January 17 – 24. The launch of the new ads was preceded by a two-week viral campaign of six 10-second teasers that appeared on YouTube, Twitter, Facebook and FRS.com. The new ads also can be viewed at FRS.com. Additional media flights are planned for later in the year.

"My daily off-season training schedule is intense—cycling, weight training, running and swimming. I need something that is going to give me maximum endurance to help me get through it all," said Lance Armstrong, who serves on the FRS Board of Directors. "Sugar and caffeine just aren't going to do it. I rely on FRS because it helps give me an edge, in a healthy way."

Quercetin has been shown in clinical studies to deliver sustained energy, help promote improved fitness and support overall health. Emerging scientific research suggests that quercetin mimics the effects of exercise by enhancing the production of the body's mitochondria, the energy-producing units in cells.

### About The FRS Company

The FRS Company produces and distributes its FRS Healthy Energy products in a variety of formulations -- ready-to-drink cans, drink concentrates, soft chews, and powdered drink mixes -- to suit customers' needs. All FRS Healthy Energy products contain a patented mix containing the highest purity quercetin available (QU995™), green tea extract and essential vitamins. FRS single-serving cans and select additional products are currently available through GNC and Vitamin Shoppe stores nationwide, in a wide array of grocery, specialty and bike stores and online at Amazon.com and other online retailers. Customers can visit FRS.com to purchase online or to locate the nearest retailers. Ten cents of every case of FRS® cans sold goes to the Lance Armstrong Foundation. Similar payments are also made on cases sold of all other FRS product formats.

Note to editors and producers: B-roll footage of Lance Armstrong engaged in a variety of training activities, and of FRS Healthy Energy products, is available upon request.

### Contacts