

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D09423**

ADMINISTRATIVE LAW JUDGE: JAY L. HIMES

IN THE MATTER OF:

NATALIA LYNCH

APPELLANT

STATEMENT OF BASES FOR REDACTIONS OF SUBPOENAED DOCUMENT

This statement is filed pursuant to Judge Himes' May 15, 2024 Order directing the Horseracing Integrity & Safety Authority (“HISA” or the “Authority”) to submit the bases for the redactions it made in one document which the Authority submitted on May 10, 2024 in response to the subpoena for the production of documents issued on May 1, 2024.

Judge Himes' May 1, 2024 Order granting Appellant's request for a subpoena *duces tecum* permitted the Authority to “make narrowly tailored redactions to restrict disclosure of investigative sources and methods.” In accordance with that order, the Authority made minimal redactions and only where it believed those redactions spoke to investigative methods, including ongoing and mandatory testing practices, of Covered Horses that have nothing to do with Appellant's alleged theory of contamination, the Monmouth Park barn, or Bruno Tessore.

The only document to which redactions were made and that is before Judge Himes for inspect is a single page tracking sheet for Natalia Lynch. As evident on the face of the document, the redacted information pertains to several horses in respect of which Trainer Lynch is a Responsible Person. The redactions concern investigative notes or comments on those horses such as when the horse last worked out or was tested. None of the horses in respect of which redactions have been made are concerned, relevant to or connected with this proceeding, and the investigative information similarly has no relevance to this proceeding. For example, the fact that the Authority recorded “Chasin' You” as working out on July 16 at Belmont and that it has no testing history is not relevant to any theory of Altrenogest contamination presented by Ms. Lynch below or in supplementation, nor is it relevant to Ms. Lynch's possession of a Banned Substance. Notably, no redactions were made in respect of the horse Mary Katherine that is relevant to the contamination theory advanced by Ms. Lynch below.

The redacted information falls under various ADMC Program Rules which prevent its dissemination. Specifically:

- Under ADMC Program Rule 5210(a), “[i]n order to ensure that Testing is conducted on a without advance notice basis, the [The Horseracing Integrity & Welfare Unit] Agency shall ensure Testing selection decisions are only disclosed in advance of Testing to those who need to know in order for such Testing to be conducted. Any notification to a third party shall be conducted in a secure and confidential manner to minimize the risk that the Responsible Person or other Covered Person will receive any advance notice of a Covered Horse’s selection for Sample collection.”
- Under ADMC Program Rule 5620(b), “[t]he Agency shall ensure that anti-doping and medication control intelligence obtained or received from a confidential source or in a non-public fashion is handled securely and confidentially, that sources of intelligence are protected, that the risk of leaks or inadvertent disclosure is properly addressed...”
- Under ADMC Program Rule 5720(b), “[t]he Agency. . .shall ensure that investigations are conducted confidentially.”

The importance of the confidentiality of anti-doping investigation and adjudication is also recognized in the Court of Arbitration for Sport’s (“CAS”) Procedural Rule 43, which provides that “[p]roceedings under these Procedural Rules are confidential. The parties, the

arbitrators and CAS undertake not to disclose to any third party any facts or other information relating to the dispute or the proceedings without the permission of CAS.”¹

The Authority was therefore prohibited under the ADMC Program, and relevant international legal frameworks, from sharing investigative and testing information that, as noted, related to horses not at issue in this proceeding. Such information *prime facie* does not constitute “evidence...of the likelihood that the presence of Altrenogest in Motion to Strike on June 24, 2023 arose from “cross-” (or “environmental”) contamination from trainer Tessore’s Monmouth Park barn or any horse stalled in that barn during the period June 19-24, 2024,” as described in Judge Himes’ March 25, 2024 Order setting the parameters of the evidentiary hearing in this matter.

While the Authority respects Appellant’s right to a hearing as delineated in the relevant Orders, it remains bound by confidentiality obligations that safeguard the integrity of the investigations and testing for which it is responsible. The redactions at issue are narrowly tailored, compliant with Justice Himes’ May 1, 2024 Order, and cover only extraneous information to which Appellant has no presumptive right. The redactions go no further than is necessary for the Authority to maintain its legal obligations and practical investigative and testing efficacy.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 16th day of May, 2024.

/s/Bryan H. Beauman

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¹ CAS jurisprudence is clear that confidential information can and should be redacted, including in decisions themselves. See Arbitration CAS [2019/A/6344](#) *Marco Polo Del Nero v. Fédération Internationale de Football Association (FIFA)*, award of 31 August 2021 at para. 35.

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CERTIFICATE OF SERVICE

Pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), a copy of this Statement is being served on May 16, 2024, via Administrative E-File System and by emailing a copy to:

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