

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
MATTER NO. _____**

ADMINISTRATIVE LAW JUDGE: _____

COMMISSIONERS: **Lina M. Khan, Chair**
 Rebecca Kelly Slaughter
 Alvaro Bedoya

**IN THE MATTER OF:
LORENZO RUIZ
APPELLANT**

NOTICE OF APPEAL AND APPLICATION FOR REVIEW

Pursuant to 15 U.S.C. § 3051 *et seq.*, including § 3058(b), 5 U.S.C. § 556 *et seq.*, and 16 CFR 1.145 *et seq.*, including § 1.146, aggrieved Appellant Lorenzo Ruiz gives notice that he hereby appeals the September 18, 2023 sanctions imposed pursuant to Horse Racing and Integrity and Welfare Unit (“HIWU”) of the Horse Racing Integrity and Safety in HIWU Cases Nos. EAD2023-16, EAD2023-17, and EAD2023-31 which imposed civil sanctions consisting in the aggregate of a 54 month suspension, and a \$37,500 fine. A copy of the Notice of Final Civil Sanctions (“Final Civil Sanctions”) under the ADMC Program is attached hereto.

HISA rules provide for review of the Final Civil Sanctions by a federal Administrative Law Judge pursuant to 15 U.S.C 3058. 15 U.S.C 3058(b)(1) requires such review to be requested within thirty (30) days of September 18, 2023. The rules further provide for a stay of the Sanctions set forth above if such stay is requested and approved by the Administrative Law Judge.

Appellant challenges HIWU’s Final Civil Sanctions and requests *de novo* review under 15 U.S.C. § 3058(b)(1) - (3) and 16 C.F.R. 1.146(b) for multiple reasons.

The penalty assessed was arbitrary, capricious, an abuse of discretion, prejudicial, or otherwise not in accordance with law. It violates accepted standards established in the decisional law of the FEI and CSA as to how the punishment must follow and be commensurate with the violation. It is also unconstitutional as violative of the Eighth Amendment's excessive fine clause.

Pursuant to 16 CPR 1.146(a)(1), Appellant requests an evidentiary hearing. Appellant requests a hearing to contest the Final Civil Sanctions and the facts as well as the interpretation of law that formed the basis for the imposition of the Consequences.

Further, pursuant to 16 CFR 1.148, Appellants request a stay of the Final Decision and Consequences during the pendency of the Administrative Law Judge's review.

DATE: October 13, 2023

Respectfully Submitted,

Darrell J. Vienna

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CERTIFICATE OF SERVICE

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of the forgoing is being served this 13th day of October 2023 via First Class mail and/or email upon the following:

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue NW,
Suite CC-5610
Washington, DC 20580

Hon. D. Michael Chappell
Chief Administrative Law
Judge
Office of Administrative Law
Judges Federal Trade
Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
(Courtesy copies via e-mail to oalj@ftc.gov and electronicfilings@ftc.gov)

Samuel Reinhardt
Assistant General Counsel
Horseracing Integrity and Safety Authority
401 West Main Street, Suite 222
Lexington, KY 40507

AMENDED NOTICE OF FINAL CIVIL SANCTIONS UNDER THE ADMC PROGRAM

September 19, 2023

SENT VIA EMAIL ([REDACTED])

Lorenzo Ruiz
[REDACTED]

**Re: *EAD Charges of ADMC Program Rules 3212
Covered Horses: Facts Matter, American Cat and Kant Beat the Rock***

This serves as notice to you, Lorenzo Ruiz, that the Horseracing Integrity & Welfare Unit (HIWU) has acknowledged your Admissions of Equine Anti-Doping Rule Violation(s) and Acceptances of Consequences and is imposing the following Consequences against you under the Anti-Doping and Medication Control (ADMC) Program pursuant to 15 U.S.C. 3057(d):

A. For EAD2023-16

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from September 18, 2023 to March 17, 2025;
2. A period of Ineligibility for Facts Matter of at least sixty (60) days, beginning on July 24, 2023, with reinstatement of Facts Matter being subject to a Negative Finding from a Re-Entry Test for all Banned Substances to be administered by HIWU and coordinated by a regulatory veterinarian;
3. Disqualification of Facts Matter's Race results pursuant to ADMC Program Rule 3221, which he obtained on June 23, 2023, with resulting Consequences of Disqualification of results including forfeiture of all purses and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
4. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
5. Public Disclosure in accordance with ADMC Program Rule 3620.

This matter involves the presence of a Banned Substance and/or its Metabolites or Markers (ADMC Program Rule 3212) in a Post-Race Sample-- Diisopropylamine. The Banned Substance was found to be present in a urine Sample collected from Facts Matter at a Covered Horserace conducted at Los Alamitos Race Course in Cypress, California on June 23, 2023.

B. For EAD2023-17

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from March 18, 2025 to September 17, 2026;
2. A period of Ineligibility for American Cat of at least sixty (60) days, beginning on July 13, 2023, with reinstatement of American Cat being subject to a Negative Finding from a Re-Entry Test for all Banned Substances to be administered by HIWU and coordinated by a regulatory veterinarian;
3. Disqualification of American Cat's Race results pursuant to ADMC Program Rule 3221, which he obtained on June 25, 2023, with resulting Consequences of Disqualification of results including forfeiture of all purses and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
4. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
5. Public Disclosure in accordance with ADMC Program Rule 3620.

This matter involves the presence of a Banned Substance and/or its Metabolites or Markers (ADMC Program Rule 3212) in a Post-Race Sample--Diisopropylamine. The Banned Substance was found to be present in a urine Sample collected from American Cat at a Covered Horserace conducted at Los Alamitos Race Course in Cypress, California on June 25, 2023.

C. For EAD2023-31

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from September 18, 2026 to March 17, 2028;
2. A period of Ineligibility for Kant Beat the Rock of at least sixty (60) days, beginning on August 3, 2023, with reinstatement of Kant Beat the Rock being subject to a Negative Finding from a Re-Entry Test for all Banned Substances to be administered by HIWU and coordinated by a regulatory veterinarian;
3. Disqualification of Kant Beat the Rock's Race results pursuant to ADMC Program Rule 3221, which he obtained on July 4, 2023, with resulting Consequences of Disqualification of results including forfeiture of all purses and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
4. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
5. Public Disclosure in accordance with ADMC Program Rule 3620.

This matter involves the presence of a Banned Substance and/or its Metabolites or Markers (ADMC Program Rule 3212) in a Post-Race Sample-- Diisopropylamine. The Banned Substance was found to be present in a urine Sample collected from Kant Beat the Rock at a Covered Horserace conducted at Los Alamitos Race Course in Cypress, California on July 4, 2023.

In total, your period of Ineligibility is fifty-four (54) months (from September 18, 2023) and your fine amounts total \$37,500.

Review of the Final Decision and its accompanying Consequences by a federal Administrative Law Judge is available under 15 U.S.C. 3058. Pursuant to 15 U.S.C. 3058(b)(1), such review must be requested within thirty (30) days of September 18, 2023 (i.e., October 18, 2023). You will also receive a copy of the notice to the Federal Trade Commission of these civil sanctions. A stay of the Consequences set forth above will only be imposed if such a stay is requested from, and approved by, the applicable Administrative Law Judge.

The Consequences set forth above are effective immediately, and any fines imposed must be paid through the HISA Portal by **October 18, 2023**.

You will also receive a copy of the notice to the Federal Trade Commission of these civil sanctions. Please also be advised that a copy of this Notice (or a summary thereof) will be published on HIWU's website.

Horseracing Integrity & Welfare Unit



Michelle Pujals, HIWU General Counsel

Encl.: Instructions for HISA Portal

cc: Darrell Vienna, Esq.
David T. Jacobson, Owner of Kant Beat the Rock
California Horse Racing Board
HISA