

PUBLIC

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9424**

ADMINISTRATIVE LAW JUDGE: _____

IN THE MATTER OF:

DERRICK PARRAM

APPELLANT

**RESPONSE TO NOTICE OF APPEAL
AND APPLICATION FOR REVIEW
AND REQUEST FOR STAY**

The Horseracing Integrity and Safety Authority (the “Authority”) files this Response to Appellant Derrick Parram’s Notice of Appeal and Application for Review. The Authority requests the Commission uphold the Authority’s Decision on Appeal (the “Decision”) and deny Appellant’s request for an evidentiary hearing. Pursuant to 16 CFR 1.146(c)(2), the appeal should be limited to briefing by the parties or oral argument.

I. HISA Rule 2262 Void Claim

It is important to first identify the Authority’s rule that governs this matter. Underlying this matter, the stewards at Laurel Park cited Appellant with a violation of HISA Rule 2262 Void Claim (the “Void Claim Rule”). Claiming races commonly occur in thoroughbred racing. A claiming race allows a new owner to purchase a participating horse for an established claiming price. While jurisdictional rules vary, generally, interested licensed owners will complete a claim slip with the racetrack, transfer the claiming funds to the horse’s original owner, and at the conclusion of the race immediately take possession of the horse. Title to a horse vests with the new owner at the time the field leaves the starting gate. HISA Rule 2262. However, under the Void Claim Rule this title

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transfer shall be voided if “the Horse has a positive test for a Prohibited Substance.” HISA Rule 2262(c)(5). A Void Claim Rule violation may be appealed to the Board of the Authority under the procedures set forth in HISA Rule 8350. The Board conducts the appeal and upholds the Void Claim Rule violation unless it is “clearly erroneous or not supported by the evidence or applicable law.” HISA Rule 8350(g).

II. Appellant’s Request for Evidentiary Hearing should be denied.

Appellant’s request for an evidentiary hearing is not needed. First, Appellant stipulated to all facts surrounding the underlying Void Claim Ruling the Laurel Park Stewards issued at the hearing before the Board of the Authority. Appellant entered an agreed factual stipulation with counsel for the Authority in advance of the hearing.¹ Using the agreed facts, the Board of the Authority conducted the appeal hearing limited to legal arguments surrounding the application of the Void Claim Rule in this matter. Appellant has not identified any relevant factual matters that are needed for this appeal beyond the agreed factual stipulation. Further, as the Notice of Appeal makes clear, all arguments Appellant intends to raise will be “to contest the interpretation of law that formed the basis for the imposition of the Sanction.” These arguments are purely legal and do not require additional evidence for the ALJ to review. Therefore, the appeal should be limited to briefing or oral argument without an evidentiary hearing.

Appellant has not identified new evidence that would be necessary to supplement or supplant the record before the ALJ in review of this appeal. The Board of the Authority reviewed at length the underlying record, including the Laurel Park Stewards’ ruling and all stipulated facts, in the rendering of its decision.

¹ The Authority will provide the ALJ the complete record.

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The Authority therefore requests the Commission uphold the Decision and limit the ALJ's review to briefing or oral argument by the parties, pursuant to 16 CFR 1.146(a)(c)(3). Briefing will address all issues raised by the Appellant in this matter. The Authority will assert, relying on the previously stipulated facts, that Appellant violated the Void Claim Rule and the resulting voiding of the claim was the proper enforcement of the rule. Appellant's horse, GIRLS LOVE ME, raced in a claiming race at Laurel Park on December 9, 2022. The horse tested positive for a prohibited substance after that race. The Stewards held two hearings and issued two rulings. The first ruling disqualified the purse earnings under Maryland regulations of prohibited substances in racing. Subsequently, the Stewards voided the claim of the horse pursuant to the Authority's Void Claim Rule that requires a claim to be voided after a positive test for a prohibited substance. The Stewards' enforcement of the Authority's regulation should be upheld.

III. Response to Appellant's Request for Stay

The Authority takes no position as to Appellant's Request for Stay. Appellant has not met the burden to receive a stay during the pendency of this appeal, as he has not shown that he will likely be successful on review. 16 CFR 1.148(d). Both the Laurel Park Stewards and the Board of the Authority found Appellant to be in violation of the Void Claim Rule. Appellant stipulated all relevant facts at the appeal hearing before the Board and did not contest the underlying factual scenario from which the Void Claim Rule violation arose. Appellant has not shown he is likely to succeed on review and his request for a stay. However, the imposition of a stay pending the ALJ's review of this matter will not constitute harm against the Authority, and the Authority takes no position on the Request for Stay.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of this Response is being served on January 2, 2024, via Administrative E-File System and by emailing a copy to:

Hon. D. Michael Chappell
Chief Administrative Law Judge
Office of Administrative Law Judges
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington DC 20580
via e-mail to Oalj@ftc.gov and electronicfilings@ftc.gov

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A copy of this Response is also being provided via email as a courtesy to the claiming owners of GIRLS LOVE ME:

Louis Ulman, ulmanlouis@gmail.com; Walter Vieser, II, Walt.vieser@redarchsolutions.com

/s/ Bryan Beuman
Enforcement Counsel