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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of Jeffrey Poole, Appellant, Docket No. D09417

**APPELLANT’S MOTION TO DECLARE THAT THE CIVIL SANCTIONS IMPOSED BY
THE HORSE RACING INTEGRITY AND SAFETY AUTHORITY, INC. (“HISA”) ARE
NOT ENFORCEABLE**

Pursuant to 16 C.F.R. 1.145(a), Appellant Jeffrey Poole, moves this tribunal for entry of an order declaring that the civil sanctions imposed upon him by HISA are unenforceable and in support thereof, states:

1. § 1.145 titled “Submission of Notice of Civil Sanctions.” provides in subsection (a) as follows:

(a) **Requirement to file.** If the Horseracing Integrity and Safety Authority (Authority) imposes a final civil sanction under 15 U.S.C. 3057(d) for a covered person's violation of a rule of the Authority, the Authority must submit notice of the sanction to the Federal Trade Commission (Commission) no later than two days after the sanction has been issued for the sanction to be enforceable.

2. § 1.145 titled “Submission of Notice of Civil Sanctions.” provides in subsection (b) as follows:

(b) **Format and procedure for submission of notice.** The notice submitted to the Commission must:

(1) Be emailed to the Secretary of the Commission (Secretary) at electronicfilings@ftc.gov;

(2) Contain the subject line “HISA Civil Sanction Notice”;

(3) Clearly indicate that it relates to a civil sanction imposed on a covered person resulting from a violation of an Authority rule;

(4) Include contact information for an employee at the Authority responsible for communications regarding review of the civil sanction;

PUBLIC

(5) Be sent in portable document format (or .PDF) or such other format as the Secretary may permit;

(6) Contain only public information; and

(7) Be served the same day upon the person aggrieved by the sanction in accordance with 16 CFR 4.4(b) as made applicable to review proceedings under this part.

3. On August 12, 2023, John L. Forgy, counsel for HISA, electronically filed a "HISA Civil Sanction Notice" with the Federal Trade Commission that includes a "cc: Jeffrey Poole". A copy of the Civil Sanction Notice is attached hereto as Exhibit "A" to this motion.

4. According to 16 C.F.R. §§ 1.145(a) and 1.145(b)(7), in order for the civil sanctions to be enforceable against Appellant Poole, a copy of the August 12, 2023, HISA Civil Sanction Notice must have been served upon Jeffrey Poole, as the person aggrieved by the sanction, in accordance with 16 C.F.R. 4.4(b) on the same day that the Civil Sanction Notice was filed with the Federal Trade Commission.

5. Although the HISA Civil Sanction Notice filed with the Federal Trade Commission on August 12, 2023 states that a "cc:" was sent to Appellant Poole, attached hereto as Exhibit "B" is an Affidavit from Appellant Poole stating that he did not receive a copy of the HISA Civil Sanction Notice.

6. In addition, it appears that the attempt to serve Appellant Poole failed to comply with the requirements of 16 C.F.R. 4.4(b) in the following respects:

a. Service of the Civil Sanction Notice was not also made upon the undersigned counsel, who had appeared on behalf of Appellant Poole, in violation of subsection (c).

b. "Proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service" was not affixed to the Civil Sanction Notice in violation of subsection (d).

7. As HISA failed to comply with the requirements of 16 C.F.R. 1.145 within two days after the sanction had been issued, in accordance with subsection (a) the sanction is not enforceable.

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WHEREFORE, Appellant Poole requests entry of an order declaring that the civil sanctions imposed upon him are not enforceable, as a matter of law, for the reasons set forth above.

BEILLY & STROHSAHL, P.A.
1144 S.E. 3rd Avenue
Fort Lauderdale, FL 33316
Telephone 954-763-7000
Facsimile 954-525-0404

/s/ Bradford J. Beilly

Bradford J. Beilly
Fla. Bar No. 310328
brad@beillylaw.com

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 25, 2023, pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), I caused the foregoing motion of Bradford J. Beilly to be filed and served as follows:

Honorable D. Michael Chappell
Chief Administrative Law Judge
Office of Administrative Law Judges
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580
Sent via e-mail to OALJ@ftc.gov

April Tabor
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580
Sent via e-mail to Electronicfilings@ftc.gov

Bryan H. Beauman
Rebecca Price
Sturgill, Turner, Barker & Moloney, PLLC
333 W. Vine St., Ste. 1500
Lexington, KY 40507
Telephone 859-255-8581
Fax: 859-231-0851
Sent via e-mail to bbeauman@sturgillturner.com and rprice@sturgillturner.com

Michelle C. Pujals
Allison J. Farrell
Horseracing Integrity & Safety Unit, a division of
Drug Free Sport LLC
4801 Main Street, Suite 350
Kansas City, MO 64112
Telephone: (816) 291-1864
Sent via e-mail: mpujals@hiwu.org and afarrell@hiwu.org

/s/ Bradford J. Beilly
Counsel for Jeffrey Poole

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August 12, 2023

Secretary of the Federal Trade Commission
electronicfilings@ftc.gov

Re: HISA Civil Sanction Notice

This notice is provided by the Horseracing Integrity and Safety Authority, Inc. ("HISA") to the Federal Trade Commission (the "Commission") under 16 Code of Federal Regulations Part I, Section 1.145 in connection with the imposition of civil sanctions under 15 U.S.C. 3057(d) and 15 U.S.C. 3055(c)(4)(B) for a violation of Rule Series 3000, the Equine Anti-Doping and Controlled Medication Protocol approved by the Commission on March 27, 2023.

The following civil sanctions have been imposed against Jeffrey Poole, who is a Covered Person under the Horseracing Integrity and Safety Act of 2020, as amended:

1. A period of Ineligibility of twenty-two (22) months, commencing on June 13, 2023, and ending on April 12, 2025 (ADMC Rule 3223);
2. A fine of \$10,000 in accordance with ADMC Rule 3223 to be paid before the expiration of the period of Ineligibility;
3. Payment of \$8,000 of HIWU's arbitration costs in connection with the matter to be paid before the expiration of the period of Ineligibility (ADMC Rule 3223); and
4. Public Disclosure in accordance with ADMC Program Rule 3620.

Any communications regarding this notice or the civil sanction set forth herein should be directed to:

John L. Forgy
Counsel to HISA
830 Vermillion Peak Pass
Lexington, KY 40515
(859)-940-1215
Email: johnforgy1@gmail.com

/s/ John Forgy

John L. Forgy
Counsel to HISA

cc: Jeffrey Poole

EXHIBIT "A"

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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of Jeffrey Poole, Appellant, Docket No. D09417

Affidavit of Jeffrey Poole

STATE OF WEST VIRGINIA
COUNTY OF Homcock

Affiant is the named "covered person" in the above referenced administrative proceeding and has personal knowledge of the facts set forth in this Affidavit.


1. On August 10, 2023, Affiant received an E-Mail Copy of arbitrator Jeffrey Benz's August 8, 2023 "Final Decision" in "In the Matter of the Arbitration Between: HORSERACING INTEGRITY WELFARE UNIT ("HIWU" or "Claimant"), Claimant v. JEFFREY POOLE ("Mr. Poole" or "Respondent"), Respondent." from my Counsel, Bradford J. Beilly.

2. On August 11, 2023, Affiant received an E-Mail from Kathryn Crouse, a legal specialist at HIWU containing a "Notice of Final Sanctions letter regarding Anti-Doping Rule Violation(s)" from Michelle Pujals, the General Counsel of HIWU, which was annexed to the E-Mail in a separate PDF.

3. Affiant has been advised by my counsel, Bradford J. Beilly, that on August 12, 2023, John L. Forgy, counsel for the Horse Racing Integrity and Safety Authority, Inc. ("HISA"), electronically filed a "HISA Civil Sanction Notice" with the Federal Trade Commission that includes a "cc: Jeffrey Poole".

4. Affiant did not receive a copy of the "HISA Civil Sanction Notice" that was filed with the Federal Trade Commission on August 12, 2023, either by E-Mail or by U.S. Mail.

Further Affiant sayeth not.



JEFFREY POOLE

The foregoing instrument was acknowledged before me by means of physical presence, on September 25, 2023, by Jeffery Poole who is/are personally known to me produced a valid driver's license produced the following as identification _____.



Notary Public

My Commission Expires: November 28 2023

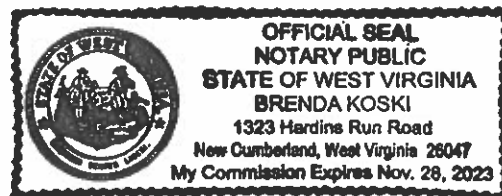


EXHIBIT "B"