

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

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In the Matter of)	
Jeffrey Poole,)	Docket No. 9417
Appellant.)	
_____)	

ORDER SETTING BRIEFING SCHEDULE

I.

On September 8, 2023, Appellant Jeffrey Poole (“Appellant” or “Poole”), pursuant to 15 U.S.C. § 3051 *et seq.*, 5 U.S.C. § 556 *et seq.*, and 16 C.F.R. § 1.145 *et seq.*, filed a Notice of Appeal and Application for Review of an August 8, 2023 decision of an arbitrator appointed by the Horseracing Integrity Welfare Unit (“HIWU”) of the Horseracing Integrity and Safety Authority (“HISA”) (the “Decision”). The Decision determined that Poole violated Rule 3214(a) of HISA’s Anti-Doping Medication Control Program by possessing Levothyroxine, a banned substance, and imposed civil sanctions of a 22-month suspension, a \$10,000 fine, and a contribution to the arbitration costs of HIWU in the amount of \$8,000.

In his Notice of Appeal, Poole requested an evidentiary hearing to contest the facts found by the arbitrator and to supplement the record with further testimony. Appellant further asserted that the civil sanctions imposed upon him were arbitrary, capricious, an abuse of discretion prejudicial, or otherwise not in accordance with law and thereby reviewable by this tribunal pursuant to 15 U.S.C. § 3058(b)(2)(A) and 16 C.F.R. § 1.146(b)(3). HISA filed a response to the Notice of Appeal on September 18, 2023, asserting, *inter alia*, that Appellant failed to identify any material facts in dispute and that an evidentiary hearing was unnecessary.

Rule 1.146(c)(2) of the Procedures for Review of Final Civil Sanctions Imposed under the Horseracing Integrity and Safety Act (“Rules”) requires the Administrative Law Judge of the Federal Trade Commission to assess, based on the notice of appeal and the response thereto, whether there are contested facts and whether supplementation of the record below is necessary. 16 C.F.R. § 1.146 (c)(2)(i)-(iii), (v). On September 19, 2023, in order to facilitate the assessment required under Rule 1.146, Appellant was directed to submit a statement specifically identifying the material facts in dispute and summarizing the proposed supplemental testimony (September 19 Order). On September 25, 2023, Appellant submitted his response to the September 19 Order in which he withdrew his request for an evidentiary hearing to contest facts and to supplement

the record and reasserted his appeal of the civil sanctions imposed upon him as arbitrary, capricious, an abuse of discretion prejudicial, or otherwise not in accordance with law.

II.

Pursuant to Rule 1.146(c)(2), based on the Notice of Appeal, HISA's response thereto, and the September 25, 2023 submittal of Appellant, neither party seeks to supplement or contest the facts found by HISA, the factual record is sufficient to adjudicate the merits of the review proceeding, and an evidentiary hearing is unnecessary. 16 C.F.R. § 1.146(c)(2).

Therefore, in accordance with Rule 1.146(c)(3), this administrative appeal will be limited to briefing by the parties on the issue of the civil sanctions. 16 C.F.R. § 1.146(c)(3). The parties are directed to concurrently file with the Federal Trade Commission's Office of the Secretary, by October 10, 2023, proposed conclusions of law, a proposed order, and a supporting legal brief providing the party's reasoning. Such filings are limited to 7,500 words, must be served on the other party, and must contain references to the record and authorities on which they rely. Reply conclusions of law and briefs, limited to 2,500 words, may be filed by each party within 10 days of service of the initial filings. 16 C.F.R. § 1.146(c)(3).

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: September 28, 2023