

**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:
MILTON PINEDA
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 Milton Pineda gives notice that he hereby appeals the September 21, 2023 sanctions imposed pursuant to Horse Racing and Integrity and Welfare Unit (“HIWU”) of the Horse Racing Integrity and Safety in HIWU Cases Nos. EAD2023-8, EAD2023-9, EAD2023-10, EAD2023-12, EAD2023-15, EAD2023-28, EAD2023-29, and EAD2023-30 which imposed civil sanctions consisting in the aggregate of a 144 month suspension, and a \$100,000 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 21, 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,

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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 oyalj@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

NOTICE OF FINAL CIVIL SANCTIONS UNDER THE ADMC PROGRAM

September 21, 2023

SENT VIA EMAIL (vaqueropineda4@gmail.com)

Milton Pineda


**Re: *EAD Charges of ADMC Program Rule 3212
Covered Horses: Bella Renella, Flatterwithjewels, Big Splash, Chollima,
Catbernay, Keep Your Coil, and Wagonahavagoodtime***

This serves as notice to you, Milton Pineda, 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 EAD2023-10

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from July 6, 2023 to February 5, 2025;
2. Disqualification of Bella Renella's Race results pursuant to ADMC Program Rule 3221, which he obtained on June 2, 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;
3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
4. 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 Bella Renella at a Covered Horserace conducted at Santa Anita Park in Arcadia, California on June 2, 2023.

B. For EAD2023-9

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from February 6, 2025 to July 5, 2026;
2. Disqualification of Flatterwithjewels' Race results pursuant to ADMC Program Rule 3221, which he obtained on June 9, 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;
3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
4. 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 Flatterwithjewels at a Covered Horserace conducted at Santa Anita Park in Arcadia, California on June 9, 2023.

C. For EAD2023-8

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from to July 6, 2026 to February 5, 2028;
2. Disqualification of Big Splash's Race results pursuant to ADMC Program Rule 3221, which he obtained on June 10, 2023 and June 24, 2003, 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;
3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
4. 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 Big Splash at a Covered Horserace conducted at Santa Anita Park in Arcadia, California on June 10, 2023.

D. For EAD2023-12

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from to February 6, 2028 to July 5, 2029;

2. Disqualification of Bella Renella's Race results pursuant to ADMC Program Rule 3221, which he obtained on June 18, 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;
3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
4. 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 Bella Renella at a Covered Horserace conducted at Santa Anita Park in Arcadia, California on June 18, 2023.

E. For EAD2023-15

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from to July 6, 2029 to February 5, 2031;
2. Disqualification of Chollima's Race results pursuant to ADMC Program Rule 3221, which he obtained on June 23, 2023 and 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;
3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
4. 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 Chollima at a Covered Horserace conducted at Los Alamitos Race Course in Los Alamitos, California on June 23, 2023.

F. For EAD2023-28

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from to February 6, 2031 to July 5, 2032;
2. Disqualification of Catbernay's Race results pursuant to ADMC Program Rule 3221, which he obtained on July 1, 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;

3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
4. 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 Catberney at a Covered Horserace conducted at Los Alamitos Race Course in Los Alamitos, California on July 1, 2023.

G. For EAD2023-29

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from to July 6, 2032 to February 5, 2034;
2. Disqualification of Keep Your Coil's Race results pursuant to ADMC Program Rule 3221, which he obtained on July 2, 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;
3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and
4. 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 Keep Your Coil at a Covered Horserace conducted at Los Alamitos Race Course in Los Alamitos, California on July 2, 2023.

H. For EAD2023-30

1. A period of Ineligibility of eighteen (18) months, as described in ADMC Program Rule 3223, from to February 6, 2034 to July 5, 2035;
2. Disqualification of Wagonahavagoodtime'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;
3. A fine of \$12,500 in accordance with ADMC Program Rule 3223; and

4. 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 Wagonahavagoodtime at a Covered Horserace conducted at Los Alamitos Race Course in Los Alamitos, California on July 4, 2023.

In total, your period of Ineligibility is one hundred and forty-four (144) months (from July 6, 2023) and your fine amounts total \$100,000. The Covered Horses Catbernay's and Keep Your Coil's Provisional Suspensions will be lifted if their Re-Entry Tests are reported as negative. Wagonahavagoodtime's Provisional Suspension will be lifted on October 10, 2023 (if his Re-Entry Test is reported as negative).

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 21, 2023 (i.e., October 21, 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 21, 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.
Albert Gonzaz, Owner
California Horse Racing Board
HISA