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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 RESPONSE TO HISA'S PROPOSED CONCLUSIONS OF LAW,
ORDER AND SUPPORTING LEGAL BRIEF**

Appellant Jeffrey Poole, hereby files his Response to HISA's Proposed Conclusions of Law, Order and Supporting Legal Brief and states:

1. A review of the parties' prior submissions evidences that the parties do not dispute any of the ultimate facts of the Arbitrator's Final Order, other than the appropriate sanction for the mere possession of Thyro-L, without any intent to use it when "[T]here was no evidence that the Thyro-L product was used by Mr. Poole on any horse after the implementation of the ADMC Program or on any horse other than King Andres for whom it was prescribed." FD ¶¶74 at 22-23.

2. Appellant Poole does not dispute that there was evidence to support the Arbitrator's finding as to the issue of liability. His sole dispute is the extent of the civil sanctions imposed by the Arbitrator.

3. HISA has cited the cases of *Guier v. Teton County Hosp. Dist.*, 2011 WY 31, 248 P.3d 623 (Wyo. 2011) and *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402 (1971) to support the proposition that a decision or sanction will not be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law where both the decision abides by the applicable rules, and the sanction is rationally connected to the facts.

4. While Appellant Poole does not argue that the civil sanctions imposed are not found within HISA's rules, his argument is that the sanctions imposed are not rationally related to the facts.

5. Appellant Poole did not acquire the Thyro-L after it was designated a banned substance by HISA. Appellant Poole did not place the Thyro-L in the tack room at Gulfstream Park assigned to him after it was designated a banned substance by HISA. He simply did not dispose of it when HISA's anti-doping program went into effect.

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6. Suspending him for 22 months is not rationally related to the extent of his offense. Fining him \$10,000 is not rationally related to the extent of his offense. The additional sanction of having him pay \$8,000 of HISA's arbitration costs is not rationally related to the extent of his offense nor to any known costs of the arbitration. The \$8,000 number appears to have been plucked out of the air without knowing what the actual cost of the Arbitration was. HISA may now know, but the record does not establish any basis for the Arbitrator to have known the total amount of the arbitration costs at the time he imposed the civil sanctions.

Wherefore, Appellant Poole asks that this Tribunal reject the sanctions as imposed by HISA, and instead, impose the sanctions of a 90-day suspension and a \$1,000 fine as requested by Appellant Poole in his proposed Conclusions of Law and proposed order.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 20, 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:

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