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

In the Matter of Luis Jorge Perez, Appellant.)))))))	Docket No. 9420
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ORDER SETTING BRIEFING SCHEDULE

I.

On November 9, 2023, pursuant to 15 U.S.C. § 3051 *et seq.* and 16 C.F.R. § 1.146(a) Appellant Luis Jorge Perez (“Appellant”) filed a Notice of Appeal and Application for Review (“Application for Review”), requesting *de novo* review of the final decision of an arbitrator (the “Arbitrator”) and civil sanctions imposed by the Horseracing Integrity and Safety Authority (“HISA” or “Authority”) under HISA’s Anti-Doping and Medication Control (“ADMC”) Program. The Arbitrator’s decision, issued October 9, 2023, determined that Appellant violated Rule 3214(a) of the ADMC Program by possessing Levothyroxine, a banned substance, and determined that civil sanctions of a 14-month suspension and a \$5,000 fine were appropriate. On October 10, 2023, HISA issued a Notice of Civil Sanctions, imposing the sanctions determined by the Arbitrator.

Appellant’s Application for Review raised several legal challenges to the sanctions, and requested an evidentiary hearing to contest the facts and the interpretations of law that formed the bases for the sanctions. HISA filed a response to the Application for Review on November 17, 2023, asserting that Appellant has not identified any facts he seeks to contest and that an evidentiary hearing is not warranted.

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 (“FTC”) 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 November 30, 2023, in order to facilitate the assessment required under Rule 1.146(c)(2), Appellant was directed to submit a statement of the facts found by the Arbitrator that Appellant seeks to contest in the requested evidentiary hearing, together with a demonstration as to how such facts are material to the decision being appealed,

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no later than December 4, 2023 (“November 30 Order”). As of the date of this Order, Appellant has not filed any statement of material contested facts.¹

II.

Pursuant to Rule 1.146(c)(2), based on the Application for Review, HISA’s response thereto, and Appellant’s failure to identify any material contested facts, in his Application for Review or in response to the November 30 Order, it is hereby determined that 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 FTC’s Office of the Secretary, by January 8, 2024, 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: December 14, 2023

¹ On December 8, 2023, Appellant’s counsel sent an email to the office of the Administrative Law Judge, stating Appellant’s intention to withdraw his prior request for an evidentiary hearing. Appellant’s counsel was advised that any such withdrawal must be filed with the FTC’s Office of the Secretary. On December 9, 2023, Appellant’s counsel submitted a document to the office of the Administrative Law Judge purporting to withdraw Appellant’s evidentiary hearing request. Appellant’s counsel was reminded that such legal documents must be filed with the FTC’s Office of the Secretary. Further, on December 11, 2023, Appellant’s counsel was contacted directly by the Office of the Secretary and provided with instructions for properly submitting a filing. As of the date of this Order, Appellant’s counsel has not properly filed a withdrawal of Appellant’s evidentiary hearing request.