

PUBLIC

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

)	
In the Matter of)	
)	
Philip Serpe,)	Docket No. 9441
)	
Appellant.)	
)	

ORDER REGARDING FURTHER PROCEEDINGS AND
FTC RULE 1.146(c)(2) ASSESSMENT

Neither Appellant Philip Serpe’s Notice of Appeal and Application for Review, nor the Horseracing Safety and Integrity Authority’s response requested supplementation of the record or holding an evidentiary hearing in this review proceeding. Nevertheless, to ensure that each party received a fair and impartial hearing, by July 28, 2025 Order I afforded the parties an opportunity to decide whether they sought to present additional expert testimony regarding the exercise of prosecutorial authority that may be probative of the matters raised here. In addition, I ordered the Authority to file all transcripts that had already been prepared of public proceedings in the related federal action, *Serpe v. FTC*, No. 0:24-cv-61939-DSL (S.D. Fla.), including the federal preliminary injunction oral argument transcript, to become part of the record in this proceeding.

The parties declined the opportunity to present additional expert evidence, and the Authority added the requested transcript from the related federal action in volume 2 of its Appeal Book. The parties also have filed their proposed opening and reply findings of fact, conclusions of law, supporting briefs, and proposed orders. By July 28, 2025 Order, I also gave the parties an

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opportunity to request oral argument, but neither side wishes to do so. *See* 16 C.F.R. § 1.146(c)(4)(i)(C)(iii).

The FTC's Procedures for Review of Final Civil Sanctions Imposed under the Horseracing Integrity and Safety Act provide, in summary, that "[i]n reviewing the final civil sanction and decision of the Authority, the Administrative Law Judge . . . will assess whether:

- (i) The parties do not request to supplement or contest the facts found by the Authority;
- (ii) The parties do not seek to contest any facts found by the Authority, but at least one party requests to supplement the factual record;
- (iii) At least one party seeks to contest any facts found by the Authority; . . . or
- (v) In the Administrative Law Judge's view, the factual record is insufficient to adjudicate the merits of the review proceeding."

16 C.F.R. § 1.146(c)(2).

Based on the foregoing, I assess that this review proceeding may be adjudicated on the merits. The matter is deemed submitted for decision.

ORDERED:

Jay L. Himes
Jay L. Himes
Administrative Law Judge

Date: August 22, 2025