

PUBLIC

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9443**

ADMINISTRATIVE LAW JUDGE:

HON. JAY L. HIMES

IN THE MATTER OF:

DR. LARRY OVERLY, DVM

APPELLANT

**AUTHORITY’S RESPONSE TO APPLICATION FOR STAY OF FINAL CIVIL
SANCTIONS**

PUBLIC**CERTIFICATE OF SERVICE**

Pursuant to 16 CFR §1.146(a) and 16 CFR §4.4(b), a copy of this Authority's Response to Appellant's Application for a Stay is being served on October 1, 2025, via Administrative E-File System and by emailing a copy to:

Hon. Jay L. Himes
 Administrative Law Judge
 Office of Administrative Law Judges
 Federal Trade Commission
 600 Pennsylvania Ave. NW
 Washington DC 20580
 via e-mail to Oalj@ftc.gov
 and electronicfilings@ftc.gov

With a hard copy to:
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/s/ Bryan Beauman

Enforcement Counsel

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The Horseracing Integrity and Safety Authority (“**Authority**”) files this Response to Appellant’s Application to stay sanctions issued pursuant to the Final Decision of Arbitrator Laura C. Abrahamson (“**Arbitrator**”) under the Authority’s Anti-Doping and Medication Control (“**ADMC**”) Program (the “**Final Decision**”). Appellant’s request should be denied, as he has failed to satisfy the requirements for a stay articulated in 16 CFR §1.148(d).

First, the likelihood of Appellant’s success on review is low.

In accordance with prior case law interpreting ADMC Program Rule 3214(a), the Arbitrator acknowledged that compelling justification is a “fact specific, case by case inquiry that must be determined by the evidence.”¹ The onus was on Appellant to show, by a preponderance of the evidence, that he was justified in having Testosterone and Isoxsuprine in his Possession at Los Alamitos on July 23, 2024 for a legitimate and legal veterinary purpose that was not connected to Thoroughbred horseracing.² Appellant failed to do so for either Banned Substance:

- With respect to the Testosterone, among other things: (i) the Arbitrator accepted a HIWU Investigator’s credible testimony that Appellant never told him that Testosterone was needed in his non-Covered practice; (ii) Appellant failed to produce records showing that he had ever administered Testosterone to a non-Covered Horse at Los Alamitos; and (iii) the only evidence of Appellant’s use of Testosterone in his off-track practice was for a horse owned by Appellant’s veterinary technician, Ms. Ingram, with whom he had an undisclosed romantic relationship, and who Appellant was purportedly scheduled to treat a week after the July 23 search by HIWU.³

¹ Decision, ¶7.5.1.

² Decision, ¶7.5.1. *See also In the Matter of Dr. Scott Shell DVM*, FTC Docket No. 9439, at p. 16 (Mar. 6, 2025); *HIWU v. Shell*, JAMS Case No. 1501000653, at para. 7.17 (Sept. 9, 2024).

³ Decision, ¶7.5.6.

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- With respect to the Isoxsuprine, among other things: (i) Appellant admitted that Isoxsuprine could not be used on non-Covered Horses at Los Alamitos; (ii) Appellant produced no records showing any instance in which he had treated a Non-Covered Horse with Isoxsuprine; and (iii) Appellant’s testimony that a client requested that he bring Isoxsuprine to an appointment for a non-Covered Horse was unsupported by any veterinary medical records from this appointment – despite Appellant and Ms. Ingram testifying that such records exist.⁴

Appellant’s claim that a “compelling justification” is otherwise established based on the composition of his practice is a red herring that would render the Possession rule meaningless and fails to consider the full context of public guidance from HIWU’s former Chief of Science, Dr. Scollay. As stated in *In the Matter of Dr. Scott Shell DVM (at Page 16)*, “compelling justification is the exception and should, accordingly ‘be interpreted restrictively.’” (citation omitted). Acceptance of Appellant’s position would also permit improper evasion of the ADMC Program.

The Authority also disputes that the sanctions imposed by the Arbitrator were arbitrary, capricious, an abuse of discretion, prejudicial, or not in accordance with the law. Appellant is only entitled to the elimination of sanctions if he establishes No Fault. A finding of No Fault is unavailable in circumstances where the undisputed evidence showed that: (i) Appellant was aware of the ADMC Program Rules and claimed to have studied them; (ii) Appellant knew Testosterone and Isoxsuprine are Banned Substances; (iii) Ms. Ingram knew she had loaded Isoxsuprine onto Appellant’s veterinary truck; (iv) Appellant admitted that he made no effort to reach out to Dr. Scollay or anyone else at HIWU to discuss the composition of his practice and whether he was at

⁴ Decision, ¶7.5.7.

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risk of violating the Possession rule; and (v) Appellant admitted that he made no effort to review Dr. Scollay's presentation, which was available on the HIWU website.⁵ The Arbitrator otherwise assessed Appellant's sanctions in accordance with prior case law and properly determined both his objective and subjective degrees of Fault.⁶

Second, Appellant has not and will not suffer irreparable harm absent a stay. Public disclosure of Appellant's final civil sanctions has already occurred, as it was required under ADMC Program Rule 3620. Appellant claims harm to his professional reputation and loss of business prospects; however, he fails to disclose that he originally signed an admission in February of 2025, which fact was posted on HIWU's website on February 25, 2025, and that, after HIWU accepted his withdrawal of that admission, Appellant chose to serve a Provisional Suspension on a voluntary basis pursuant to ADMC Program Rule 3247. He also fails to provide facts in support of these conclusory assertions. In addition, harm can only be considered irreparable "where there is no adequate remedy at law, such as monetary damages."⁷

Third, contrary to Appellant's submission, other parties will be harmed if the stay is granted. As outlined above, the Authority strongly contests Appellant's argument that the Final Decision imposes sanctions that are the result of any error. The ADMC Program protects the integrity of horseracing and the confidence of its stakeholders, including the betting public.⁸ Granting the stay will undermine the Authority's efforts to protect the integrity of horseracing and will harm other Responsible Persons and the betting public by permitting Appellant's participation therein. It would also be contrary to the ADMC Program's mission to protect horse welfare.

⁵ Decision, ¶¶7.8.4 – 7.8.5.

⁶ Decision, ¶¶7.8.7 – 7.8.17.

⁷ *Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2011).

⁸ ADMC Program Rules 3010(a), 3010(d)(7).

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Fourth, while the public interest is served by the compliance of administrative agencies with the law generally, and the *Administrative Procedure Act* specifically, it is also served by individual compliance with the rules and regulations validly promulgated by federal agencies. The stated purpose of the Horseracing Integrity and Safety Act is “to improve the integrity and safety of horseracing by requiring a uniform anti-doping and medication control program. . . .” A stay in this case would be antithetical to that purpose.

The Authority requests that Appellant’s Application for a stay be denied.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 1st day of October, 2025.

/s/Bryan H. Beauman

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