PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9447

ADMINISTRATIVE LAW JUDGE: Jay L. Himes

IN THE MATTER OF:

CRAIG A. LEWIS **APPELLANT**

APPELLANT'S LEGAL BRIEF

May 1, 2026

Respectfully submitted,

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I. INTRODUCTION.

A. Preamble.

Pursuant to 16 C.F.R. § 1.146(b)(2)-(3) and 15 U.S.C. § 3058(b)(1), (2) and (3), Appellant and Trainer Craig A. Lewis ("Appellant") has appealed, and hereby seeks a *de novo* review of, the Final Ruling of Internal Adjudication Panel ("IAP"), dated March 1, 2026, in ECM 2025-250. In accordance with the Order issued on April 8, 2026, by the Administrative Law Judge ("ALJ") of the Federal Trade Commission ("FTC") on Appellant's Application for Review and Stay, Appellant submits this Legal Brief in support of his proposed findings of fact, conclusions of law and proposed order.

The Horseracing Integrity and Welfare Unit ("HIWU"), acting for the Horseracing Integrity and Safety Authority ("HISA"), charged Appellant with Anti-Doping Medication Control ("ADMC") Program Rule ("Rule") 3312(a), "Presence of a Controlled Medication Substance." Due to various rule violations of its own rules by HISA, these violations are fatal under Rules 3121 and 3312(b) with respect to the Rule 3312(a) charge against Appellant.

First, the IAP erroneously concluded HIWU met its burden of proof, under HISA, to establish Appellant violated Rule 3312 despite HIWU not proving, by admissible evidence, that Appellant's "acts, practices or omissions" under 16 C.F.R. § 1.146(b)(2), are in violation of HISA Rule 3312(a).

a. The IAP failed to determine under HISA Rule 7260(d), the "admissibility, relevance, and materiality" of the laboratory document package, if any, of Kenneth L. Maddy Equine

Analytical Chemistry Laboratory at University of California, Davis ("UCD"). [Proposed Findings of Fact ("PFF"), Nos. 13, 14, 15, 16, 17 and 18]

b. UCD's laboratory documentation package, if any, fails because it does not identify two Certifying Scientists' signatures, rather than two "analysts" signatures, on the laboratory documentation package, or on the Certificates of Analysis, which constitutes a departure from the Laboratory Standards in HISA Rule 6315. [PFF, No. 18]

c. UCD's laboratory documentation package, if any, fails because of the absence of chain-of-custody evidence between August 31, 2025, and September 3, 2025, before UCD received the Covered Horse's blood sample. [PFF, Nos. 13 and 14]

d. UCD's laboratory documentation, if any, fails because of the lack of evidence as to how the Covered Horse's sample was stored after August 31, 2025, and before arriving at UCD on September 3, 2025 [PFF, No. 16] in accordance with Rule 5510(b). [PFF, No. 15]

e. The departure by HIWU from Rule 5510(b) is significant because Federal Rule of Evidence 901, which the ALJ may consider as guidance under Rule 7260(d), "requires accounting for [a blood] sample's handling from the time it was first collected until the time it was analyzed." *See* 77 A.L.R. 5th 201. [PFF, Nos. 14, 15 and 16]

f. The IAP erroneously admitted in evidence the alleged reports referred to A Sample and B Sample, with no witness to authenticate them, contrary to 16 C.F.R. § 1.146(c)(6)(iii), which allows a party to present its case by sworn oral testimony and documentary evidence but not documentary evidence alone. [PFF, Nos. 14, 15, 16, 17 and 18]

g. Peculiarly, the first Certificate of Analysis, dated September 19, 2025, tested hair, not the blood, and it was not until more than one month, October 2, 2025, the Certificate of Analysis concerning blood was issued by UCD. [PFF, Nos. 17, 24 and 25]

h. The IAP erred by not drawing adverse inferences against HIWU in accordance with Rule 7260(d), because HIWU failed to produce any witnesses to authenticate either the A Sample or B Sample, or any of the other issues enunciated (a)-(g) above. [PFF, Nos. 14, 15, 16, 17 and 18]

i. The Certificate of Analysis, dated October 28, 2025, from the Equine Integrity and Anti-Doping Sciences ("EQIAS"), appears to have tested for Lasix, not methocarbamol. [PFF, No. 27]

Second, the Consequences assessed against Appellant were "arbitrary, capricious, an abuse of discretion, prejudicial . . ., or otherwise not in accordance with the law." 16 C.F.R. § 1.146(b)(3). The IAP erroneously found that Appellant did not sufficiently establish "No Fault or Negligence" ("No Fault") in accordance with Rule 3324(a). [PFF, No. 42]

Third, the IAP also acted arbitrarily and capriciously by not granting Appellant's multiple requests to obtain a DNA sample. [PFF, Nos. 33, 34, 35, 36, 37, 38, 40 and 41] The IAP denied Appellant's requests multiple times. [PFF, Nos. 35 and 38]

Fourth, the IAP Member was a non-lawyer charged with making legal interpretations and deciding significant evidentiary issues.

Fifth, the constitutionality of HISA has not yet been finally decided.

The Final Ruling of the IAP totally ignored critical uncontroverted evidence proffered by Appellant in which Appellant testified that he has been a trainer for forty-five (45) years, utilizing the services of the same veterinarian, John P. Araujo, DVM, for forty (40) years with over one thousand (1,000) administered methocarbamol without any post-race violations. [PFF, Nos. 1, 2, 3, 4, 5 and 42]

II. BACKGROUND OF APPELLANT.

Appellant became a licensed horse trainer in 1981 under California law, with license number 052095 [PFF, No. 1], and a Covered Person or Responsible Person under HISA Rules 1020 and 3020(a)(3) . He has an exemplary record. [PFF, Nos. 1 and 2] In almost forty-five (45) years of training horses, he has never had any purse taken away (other than interference in a race) nor has he ever been suspended for any violation. [PFF, No. 2] He presently trains horses that race at Santa Anita Park, Del Mar Racetrack, and at times, Los Alamitos Race Course. [PFF, No. 1] In the past, he was licensed as a trainer in many other states including Kentucky, New Jersey, Illinois, Louisiana, Texas, Oklahoma, Arizona, New Mexico and West Virginia. [PFF, No. 2] These states do not have reciprocity with California. [PFF, No. 1]

John P. Araujo, DVM, has been Appellant's primary veterinarian for some forty (40) years. [PFF, No. 4] He has treated some six thousand (6,000) thoroughbred racehorses trained by Appellant during that time [PFF, No. 4] and treated more than one thousand (1,000) thoroughbred

racehorses trained by Appellant with methocarbamol. [PFF, No. 5] One of the more than one thousand (1,000) thoroughbred racehorses that Dr. Araujo injected with methocarbamol was the Covered Horse. [PFF, No. 6] Dr. Araujo has treated the Covered Horse in advance of all of her five (5) career races with an intravenous injection of methocarbamol, with the same exact milligrams at least forty-eight (48) hours in advance of each of the Covered Horse's scheduled races including her maiden race, which she won before her race on August 31, 2025. [PFF, Nos. 6 and 7] None of the 1,000 horses ever tested positive, except the Covered Horse on August 31, 2025. [PFF, Nos. 5, 7, 8, 10 and 11]

III. STANDARD OF REVIEW.

The ALJ determines *de novo* if (i) Appellant engaged in such "acts, practices or omissions" as HIWU has found; (ii) whether Appellant's acts or omissions violate the HISA Rules; or (iii) if the Consequences imposed against Appellant were arbitrary, capricious, or not in accordance with law. 16 C.F.R. § 1.146(b)(1)-(3) The ALJ reviews the record and civil sanctions/consequences "anew," as though no prior decision had been rendered. *See*, *Freeman v. DirectTv, Inc.*, 457 F.3d 1001, 1004 (9th Cir. 2006).

IV. ARGUMENT.

A. HIWU Failed to Meet Its Burden of Proof.

1. HIWU Was Not Able to Carry Its Burden of Proof.

The IAP erroneously concluded HIWU met its burden of proof under HISA Rule 3121 to establish Appellant violated HISA Rule 3312(a). HIWU has the initial burden of proof under Rule 3121(a) and (b), which are set forth below:

> 3120. Proof of Violations
>
> Rule 3121. Burden and Standard of Proof
>
> (a) [HIWU] shall have the burden of establishing that a violation of the [Anti-Doping and Controlled Medication] Protocol has occurred to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability (*i.e.*, a preponderance of the evidence) but less than clear and convincing evidence or proof beyond a reasonable doubt.
>
> (b) Where the Protocol places the burden of proof on a Covered Person to rebut a presumption or to establish specified facts or circumstances, the standard of proof shall be by a balance of probability (*i.e.*, a preponderance of the evidence), except as provided in Rules 3122(c) and 3122(d).

The methods for establishing the facts and presumptions necessary for HIWU to meet its burden of proof are set forth in Rule 3122, which provides as follows:

> Rule 3122. Methods of Establishing Facts and Presumptions
>
> Facts related to violations may be established by any reliable means, including admissions. The following rules of proof shall apply:
>
> . . .
>
> (c) Laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the Laboratory Standards. A Covered Person who is alleged to have committed a violation may rebut this presumption by establishing that a departure from the Laboratory Standards occurred that could reasonably have caused the Adverse Analytical Finding or other factual basis for any other violation asserted. Where the presumption is rebutted, the Agency shall have the burden of establishing that such departure did not cause the Adverse Analytical Finding or other factual basis for the violation asserted.
>
> (d) Addresses departures from any other Standards or provisions of the Protocol.

As set forth herein, HIWU departed from its own rules as well as laboratory standards. As such, HIWU did not carry its burden of proof.

B. HIWU's Purported Evidence Is Inadmissible and Unreliable.

The IAP's decision and final civil sanctions are "arbitrary, capricious, an abuse of discretion, . . . or otherwise not in accordance with law" under 16 C.F.R. § 1.146(b)(3). They are based on evidence that is inadmissible and unreliable due to rule violations, now subject to review by the ALJ. 15 U.S.C. § 3058(b)(2)(A)(iii).

1. Violations By HIWU and the Laboratories.

First, the IAP should have found that the laboratory violated Rule 6315(b). [PFF, No. 19] The laboratory document packet as well as the Certificate of Analysis does not identify the two signatures of Certifying Scientists, as opposed to two "analysts," as required under Rule 6315(b). [PFF, No. 18] A minimum of two Certifying Scientists should conduct an independent review of all Adverse Analytical Finding ("AAF") before a test report is reviewed. [PFF, No. 18] Evidence of the review and approval shall be recorded in accordance with Rule 6315(b). Here, no evidence was offered to those two Certifying Scientists conducted an independent review and there was no such certification of the two scientists. [PFF, No. 18] The Final Ruling of the IAP failed to address the rule violation of Rule 6315(b). [PFF, No. 18]

Second, there is no evidence that the Covered Horse's sample was stored or held in custody as required under Rule 5510(b). [PFF, Nos. 15 and 16] Specifically, HIWU did not address, nor offer any evidence, how the Covered Horse's sample was stored or held in custody, after the sample was taken on August 31, 2025, before arriving at the laboratory on September 3, 2025, as required under Rule 5510(b). [PFF, Nos. 14 and 15] The laboratory document packet provided by HIWU did not indicate whether the blood sample of the Covered Horse was securely stored. [PFF, No. 16]

Compliance with Rule 5510(a) is essential to effectuating Rule 5510's purpose of ensuring that samples are "store[d] ... in a manner that protects the integrity, identity, and security, prior to transport to the Laboratory." Rule 5510(b) ensures that samples can be authenticated, containing a list of requirements if the sample from the Covered Horse is not transported to the laboratory on the day of collection. It is axiomatic that evidence must be authenticated. *See* Fed. R. Evid. 901(a); Rules 5510(a), (b), (c) and (d); 5520(a) and (b); 7260(d) ("[T]he Federal Rules of Evidence may be used for guidance[.]"). Authentication "requires accounting for the sample's handling from the time it was first collected until the time it was analyzed." *See* 77 A.L.R.5th 201. This period immediately following collection is a vital, missing link in the overall chain of custody. The absence of Rule 5510(b) evidence is "ultimately a fatal problem."

Although HIWU offered in evidence the alleged A Sample and B Sample, it did not provide any witness to authenticate these samples, and offered no evidence to demonstrate the chain of custody from these samples from the Covered Horse on August 31, 2025, to UCD on September 3, 2025. [PFF Nos. 14, 15 and 16] Indeed, HIWU utterly failed to comply, or offer any evidence of compliance, with Rule 5510(a), (b) or (c) or with Rule 5520(a) and 5520(b). [PFF Nos. 14, 15 and 16] Rules 5510(a), (b), (c) and (d) provide as follows:

> 5510. Storage and Custody of Samples Prior to Analysis
>
> (a) After Sample collection, the Doping Control Officer ("DCO") or Blood Collection Officer ("BCO") shall store Samples in a manner that protects the integrity, identity, and security, prior to transport to the Laboratory.
>
> (b) If a urine or blood Sample is not transported to the Laboratory on the day of collection:
>
> (1) the relevant Sample Collection Personnel shall store the urine Sample in a secure freezer or refrigerator; and
>
> (2) the relevant Sample Collection Personnel shall store the blood Sample in a secure refrigerator;

> (3) and, in each case, shall document in the Chain of Custody the location and time in and time out of the urine or blood Sample.
>
> (c) The DCO or BCO shall document who has custody of the Samples or who is permitted access to the Samples.
>
> (d) The Agency shall develop a system for recording the Chain of Custody of Samples and receiving Sample Collection Session documentation to ensure that each Sample is securely handled and the documentation for each Sample is completed. (Emphasis added)

The failure of HIWU to call any witnesses whatsoever deprived Appellant's counsel of the ability to cross-examine any such witnesses.

Rule 5520(a) and (b) provide as follows:

> 5520. Transport of Samples and Documentation
>
> (a) Samples should be transported to the Laboratory as soon as reasonably practicable after the conclusion of the Sample Collection Session. Samples collected on a weekend, or over consecutive days, may be stored and shipped together in batches (*e.g.*, Samples collected on a race weekend may be stored and sent to the Laboratory on the next Monday), provided that the Samples are stored in accordance with the requirements of these Testing and Investigations Standards.
>
> (b) Samples shall be transported securely via a transportation or shipping service authorized by the Agency. The Agency shall authorize a transport system that ensures Samples and related documentation are transported in a manner that protects their integrity, identity, and security, and which minimizes the potential for Sample due to factors such as delays and extreme temperature variations. Blood samples must be transported in a manner that maintains a cool and constant environment.

Here, the blood sample was obtained on Sunday, August 31, 2025, and was not sent to UCD until Tuesday, September 2, 2025 (and received by UCD on September 3, 2025). [PFF, No. 15]

HIWU has failed to carry its burden of proof, in accordance with Rule 3121, as well as failing to offer sufficient evidence in compliance with Rules 5510, 5520, 6315 and 7250 or other evidentiary rules for proving that Appellant violated the Protocol, as set forth in Rule 7260 and Rule 3121. This is fatal to HIWU's case.

The many HISA Rule violations render HIWU's evidence inadmissible and unreliable. The Federal Rules of Evidence mandate that "any and all scientific testimony or evidence admitted [be] not only relevant, but reliable." *See Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 589 (1993). Scientific evidence is only admissible if it is "the 'product of reliable principles and methods' ... [that] have been 'reliably applied' in the case." *See United States v. Gissantaner*, 990 F.3 457, 463 (6th Cir. 2021) (quoting Fed. R. Evid. 702). Reliability is what matters most. HIWU's

failures "to follow the appropriate protocols" strips HIWU's evidence of any admissibility or reliability. *See United States v. Beasley*, 102 F.3d 1440, 1448 (8th Cir. 1996).

The violations also make HIWU's evidence offensive to due process protections, which the IAP's decision fails to consider. The "'established maxim' [is] that agencies must 'adhere to their own rules.'" *United Space All., LLC v. Solis*, 824 F.Supp. 2d 68, 82 (D.D.C. 2011) "This is so even where the internal procedures are possibly more rigorous than otherwise would be required." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

With these violations of its own Rules, Appellant has successfully rebutted, under Rule 3122(c), the presumptions in favor of UCD under Sample A and Sample B.

C. The IAP Erred By Not Finding That Appellant Bears No Fault or Negligence for the Alleged Controlled Medication Rule 3312 Violation.

Rule 3324 provides that a Covered Person can establish that he/she bears no fault or negligence for the ADMC violation charged can be eliminated as to the Covered Person, but not the Covered Horse (*e.g.*, disqualification and forfeiture of the purse). *See also* Rule 3321(a)(1). Under HISA rules, the term "Consequences" is broadly defined in Rule 1020 as penalties resulting from one or more violations and "other Consequences" include financial penalties and public disclosure.

The Covered Person is entitled to demonstrate that he/she bears "no fault or negligence" to lessen the "Consequences or penalties" for himself. The Covered Person must also establish how the controlled substance entered the Covered Horse's system in order to establish no fault or negligence. Rule 3324(a). Here, Appellant established specified facts and circumstances that he bears "no fault or negligence" since he had no involvement whatsoever with the intravenous injection of methocarbamol administered by Dr. Araujo to the Covered Horse in advance of her race on August 31, 2025. [PFF No. 42]

"No Fault or Negligence" means, under Rule 1020, [Appellant] did not know or suspect, and could not have reasonably known or suspected, even with the exercise of utmost caution, that [Dr. Araujo] would commit an [ADMC rule violation with his injection of methocarbamol in the Covered Horse on August 29, 2025, forty-eight (48) hours before her race on August 31, 2025.]" [PFF No. 42] Appellant provided credible uncontroverted testimony that he reasonably believed Dr. Araujo's

statements, including the written statements that Dr. Araujo submitted to California Horse Racing Board, in which he stated that he injected the Covered Horse more than forty-eight (48) hours before the race on August 31, 2025, within the permissible limits allowed for methocarbamol. [PFF Nos. 8 and 42] This is an exceptional case under Rule 3224(b), as Appellant exercised the utmost caution and had over one thousand (1,000) horses previously injected by the same veterinarian without any post-race positive. [PFF Nos. 5, 6, 7, 8, 9 and 42]

Based upon the foregoing, the Final Ruling of IAP on this issue against Appellant was "arbitrary, capricious, an abuse of discretion, prejudicial, or otherwise not in accordance with the law." 16 C.F.R. §1.146(b)(3).

D. The IAP Erred In Denying Appellant's Multiple Motions to Obtain a DNA Sample.

It is difficult to fathom for Appellant why HIWU was not interested in fairness, due process, justice or even the truth, which a DNA analysis would reveal. [PFF Nos. 35, 38 and 41] On November 24, 2025, Appellant submitted to the IAP the Motion of Appellant to Obtain a DNA Sample from the Covered Horse. [PFF No. 33] On December 3, 2025, HIWU filed HIWU's Response to Appellant's Motion to Obtain DNA Sample. [PFF No. 34] On December 5, 2025, the IAP denied this Motion to obtain DNA Sample of Appellant. [PFF No. 35]

Subsequently, on February 3, 2026, Appellant submitted to the IAP the Motion of Appellant for Reconsideration of the Denial of Appellant's Previous Request to Obtain a DNA Sample. [PFF No. 36] In this Motion, Appellant challenged the basic premise in HIWU's Response to Appellant's Motion to Obtain DNA Sample. [PFF Nos. 34 and 36] HIWU erroneously alleges that Appellant "has failed to rebut the presumption that the ADMC Program Laboratories conducted their analysis and custodial procedures of the Covered Horse's samples in accordance with Laboratory Standards by presenting evidence that a departure occurred." [PFF No. 35] This conclusion wholly and inexplicably misses the entire point of Appellant's Motion to Obtain a DNA Sample. [PFF Nos. 35 and 36] The purpose of Appellant's Motion was to determine whether there was such a departure. [PFF No. 36] In essence, Appellant's Motion did not challenge the actual test results, but whether the correct horse was analyzed. [PFF No. 36] On February 4, 2026, the IAP denied Appellant's Motion. [PFF No. 38]

At the hearing on February 17, 2026, Appellant again sought to have the IAP reconsider his DNA request. [PFF No. 40] Of course, Appellant would have paid all expenses associated with obtaining a DNA sample. [PFF No. 40] The IAP Member ignored Appellant's renewed request in the IAP's Final Ruling. [PFF No. 41]

Coupled with HIWU's violations of its own rules and considering the lengthy history of Appellant with no post-race violations in forty-five (45) years in training, the IAP should have granted Appellant's request for DNA testing.

1. Rationale for Appellant's Requests for a DNA Sample.

John P. Araujo, DVM, has been the primary veterinarian for Appellant for approximately 40 years and has exclusively treated the Covered Horse, with methocarbamol, in each and every of her four career races prior to August 31, 2025, as well as her fifth race on August 31, 2025. [PFF, Nos. 4, 5, 6 and 7] Specifically, he followed the exact same process in each of these five (5) instances, namely, injecting the Covered Horse intravenously at least forty-eight (48) hours in advance in each of the five (5) enumerated races herein with the exact same milligrams of methocarbamol, as he did with over one thousand (1,000) thoroughbred horses trained by Appellant. [PFF, Nos. 5 and 6] Dr. Araujo has stated under oath that the injection of the Covered Horse was "in compliance with all regulations and rules concerning the timing and the amount of methocarbamol administered." [PFF, Nos. 5, 6, 7, 8 and 9] Indeed, Dr. Araujo was required to, and did, submit slips to the California Horse Racing Board any time that he administered methocarbamol to a horse, including the Covered Horse. [PFF, No. 8] The slips all stated that he provided the injections at least forty-eight (48) hours before a scheduled race and all within the legal limits. [PFF, Nos. 6 and 8]

The foregoing, coupled with Appellant's exemplary record over forty-five (45) years, is more than sufficient to demonstrate that Appellant has *prima facie* carried his burden.

2. HISA's Clarification of Rule 3133, Expressly Authorizing DNA Testing.

HISA itself has proposed a clarification to existing Rule 3133. Specifically:

a. Rule 3133 (Test Types) now proposes "DNA Testing", upon a request by a Covered Person in connection with an Adverse Analytical Finding.

b. The proposed rules also provide that DNA testing may be requested at the same time of requesting a B-Sample analysis in connection with an Equine Anti-Doping ("EAD") or an Equine Controlled Medication ("ECM") Notice for a Presence Violation under Rule 3212 (banned medication) or 3312 (controlled medication).

c. The stated purpose of DNA testing is to confirm that the biological material in the sample matches the Covered Horse at issue.

d. The proposed rules further contemplate that, where the original sample cannot be used for DNA analysis, a comparator or newly collected sample may be obtained for that purpose.

This clarification to Rule 3133 was proposed by HISA itself in order to clarify an ambiguity in the existing Rule 3133. It will undoubtedly be approved by the FTC shortly as it has done so historically. The rationale behind the proposed clarification allows the Covered Person to request the DNA testing of a sample to confirm it is indeed from their Covered Horse.

3. IAP's Interpretation of Existing Rule 3133 Is Not Dispositive.

There is no existing rule of HISA which precludes a DNA sample. The proposed new Rule 3133 is simply a clarification of the existing rule which itself did not prohibit DNA Testing. Indeed, Rule 3133 is already an existing rule; the proposal recommended by HISA simply clarifies the existing rule upon request by a Covered Person, for alleged violations of Rule 3212 or 3312. The IAP could just have easily granted Appellant's request for DNA testing. Its refusal was arbitrary and capricious.

Although the IAP denied Appellant's multiple requests for DNA testing, the ALJ is not bound by that ruling nor is a court. In the recent landmark decision of *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overruled *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), holds that the ALJ is not bound by an agency's (here, IAP's) interpretation of an ambiguity in a law or rule.

4. The Key Issue for the Application of DNA Testing Is Whether the Proposed Rule Clarifies Existing Law.

Proposed new rules to clarify existing law generally apply to all pending cases because they are considered as a restatement of existing law rather than substantive change. Here, it is clear that the proposed rule clarifies the existing law because it was added to the existing law in Rule 3133 rather than creating a whole new rule. *Piamba Cortes v. Am. Airlines, Inc.*, 177 F.3d 1272, 1283 (11th Cir. 1999); *ABKCO Music, Inc. v. LaVere*, 217 F.3d 684, 689-91 (9th Cir. 2000).

Examples of agencies currently applying proposed rules include the Centers for Medicare and Medicaid Services (CMS) which recently released its 2027 payment proposal.

E. HIWU Unilaterally Selects Unqualified IAP Members, Without Legal Education, to Preside.

HIWU's unilateral selection of the IAP Member to conduct the administrative hearing is fundamentally the denial due process, particularly as it relates to HIWU's imposition of penalties or punishment, including suspensions, fines, forfeitures of purses, the allocation of points to the purported wrongdoer. The IAP Member is a non-lawyer who is unfairly asked to make legal interpretations and significant evidentiary determinations.

F. Challenges to the Constitutionality of HISA.

On June 30, 2025, the U.S. Supreme Court remanded three cases back to the Fifth, Sixth and Eighth Circuits, respectively, for reconsideration of the constitutionality of HISA. The Fifth Circuit reconfirmed its holding in *Nat'l Horsemen's Benevolent & Protective Ass'n v. Black*, 107 F.4th 415 (5th Cir. 2024), *cert. granted, judgment vacated sub nom.*, 145 S.Ct. 2836 (2025) concluding that some of HISA enforcement provisions are unconstitutional because they violate the private nondelegation doctrine. The ALJ here asserts that he has twice rejected the holding by the Fifth Circuit. On December 18, 2025, the Sixth Circuit in *Oklahoma v. United States*, 62 F.4th 221 (6th Cir. 2023), *cert. denied*, 144 S.Ct. 2679 (2024), *reh'g granted and opinion vacated*, 145 S.Ct. 2836 (2025), *aff'd on remand*, 163 F.4th 294 (6th Cir. 2025), reconfirmed HISA's constitutionality a second time, finding that the primary rule-maker was the FTC. As of April 2026, the Eighth Circuit had not issued a final decision on the constitutionality of HISA, although in a 2-1 split, it previously

found in *Walmsley v. Federal Trade Commission*, 117 F. 4th 1032 (8th Cir. 2024), *cert. granted, judgment vacated*, 145 S.Ct. 2870 (2025) constitutional. Because of a split with Fifth Circuit and Sixth Circuit, the U.S. Supreme Court will likely weigh in again.

The Ninth Circuit, in which this Appellant is located, has not yet considered the constitutionality of HISA.

V. CONCLUSION.

Based upon the foregoing, and a *de novo* review of the record, Appellant submits that the Final Ruling of the IAP is replete with errors. As such, the Final Ruling of the IAP should be reversed in all particulars including all final sanctions/consequences.

Dated: May 1, 2026

Respectfully submitted,

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PUBLIC

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

In the Matter of Craig A. Lewis, Docket No. D-09447

PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Pursuant to 16 C.F.R. 1.146(c)(4)(i)(C) and the ALJ's order dated April 8, 2026, Appellant Craig A. Lewis submits the following Proposed Findings of Fact and Conclusions of Law:

I. Proposed Findings of Fact

1. Appellant became a licensed horse trainer in 1981 under California law, with license number 052095 and has been licensed in multiple states including Kentucky, New Jersey, Illinois, Louisiana, Texas, Oklahoma, Arizona, New Mexico and West Virginia, which have no reciprocity with California. [Appeal Book ("AB"), 040] He currently trains horses that race at Santa Anita Park, Del Mar Racetrack and at times, Los Alamitos Race Course [AB 090-094, at 091].

2. In forty-five (45) years of training, Appellant never had any purse taken away (with the very rare exception of interference by a horse in a race) nor has he ever been suspended for any violation by any track or agency. [Appeal Book Supplement ("ABS"), 277 (Lewis)] Appellant has an exemplary record. [ABS 273-279, 282-284 (Lewis)]

3. John P. Araujo, DVM, became a licensed veterinarian in 1977, under California law, with license number 6361. [AB, 018-019]

4. Dr. Araujo has been the primary veterinarian of Appellant for some forty (40) years, having treated some six thousand (6,000) thoroughbred racehorses trained by Appellant. [AB, 018-038, at 019; ABS, 281-282 (Lewis)]

5. Dr. Araujo has treated more than one thousand (1,000) thoroughbred racehorses trained by Appellant with methocarbamol, in the exact same manner by injecting them intravenously with at least forty-eight (48) hours in advance of a scheduled race, with no post-race violations. [AB, 018-021, at 019]

6. Dr. Araujo also treated the Covered Horse in all five (5) of her career races, which occurred on (i) April 5, 2025, (ii) April 25, 2025, (iii) May 18, 2025, (iv) July 31, 2025, and (v) August 31, 2025, with an intravenous injection of the exact same milligrams at least forty-eight (48) hours in advance of the Covered Horse's next scheduled race. [AB, 019-020]

7. In the four career races of the Covered Horse, one of which she won, before her race on August 31, 2025, there were no post-race medicine violations. [AB, 018-038, at 020-021; ABS, 287-288]

8. After Dr. Araujo injected methocarbamol into the Covered Horse on August 29, 2025, he reported in writing, as required, the timing and exact amount of milligrams, with proper limits, that he injected her with, to the California Horse Racing Board. [AB 018-030, at 025-038; ABS, 288-291]

9. Dr. Araujo had absolute total control over the intravenous injection that he administered on August 29, 2025, to the Covered Horse. Appellant had no such control. [AB, 018-038, at 020, 090-094 at 092] Indeed, Appellant is absolutely precluded from possessing or using a syringe, needle or similar instrument. [AB 090-094, at 091]

10. On August 31, 2025, Appellant was the trainer of the racehorse, the Covered Horse. [AB, 041, 121-122]

11. On August 31, 2025, the Covered Horse finished first in Race 11 at Del Mar Racetrack in California. [AB, 122]

12. Following the race of the Covered Horse on August 31, 2025, HIWU Sample Collection Personnel collected a blood sample and urine sample from the Covered Horse, not a hair sample. [AB, 149, 150]

13. Although the blood sample was drawn from the Covered Horse on August 31, 2025, it was not sent to the Kenneth L. Maddy Equine Analytical Chemistry Laboratory at the University of California, Davis ("UCD"), until September 2, 2025, receipt of which was acknowledged on September 3, 2026. [AB, 122, 142, 179-180]

14. HIWU did not call any witnesses nor provide any declarations at the IAP proceeding on February 17, 2026, about the chain of custody of the blood sample taken from the Covered Horse on August 31, 2025, before arriving at UCD on September 3, 2025. [ABS, 306-344 (Heath)]

15. UCD's laboratory documentation package, if any, fails because no evidence was offered as to how the Covered Horse's blood sample held or stored in custody after the blood sample was taken on August 31, 2025, before arriving at the laboratory on September 3, 2025. [ABS, 306-344 (Heath)]

16. Although the HIWU Sample Collection Form indicates that the blood was sealed, HIWU did not call any witnesses nor provide any declarations at the IAP proceeding on February 17, 2026, about the laboratory documentation package from UCD indicating "if the storage of the Covered Horse's blood sample was secure." [AB, 149; ABS, 306-344 (Heath)]

17. On September 19, 2025, UCD issued a Certificate of Analysis, reporting an Adverse Analytical Finding ("AAF") for the Covered Horse, was based on a "hair sample" finding of methocarbamol. [AB, 142]

18. UCD's laboratory documentation package, if any, fails because it does not identify two Certifying Scientists' signatures, rather than two "analysts" signatures, on the laboratory documentation package or on the Certificate of Analysis, and recorded, which constitutes a departure from the Laboratory Standards. [ABS, 306-344 (Heath)]

19. Methocarbamol is characterized as a Category C, Controlled Medication on the Prohibited List. [AB, 121]

20. Methocarbamol is not designed to enhance performance but rather is prescribed as a muscle relaxant to treat muscle spasm. [AB, 013]

21. On September 24, 2025, HIWU sent a letter, together with a copy of the A Sample Certificate of Analysis from UCD, to Appellant which constituted an Equine Controlled Medication ("ECM") Notice, pursuant to the Anti-Doping Medication Control ("ADMC") Program Rule 3345 of the Protocol, Program Rule 3312, referring to methocarbamol as a Category C of the Controlled Medication Rule Violation, which could lead to, among other things,

the automatic disqualification of the purse in accordance with ADMC Program Rule 3321(a) of the Protocol. [AB, 144-148]

22. On September 24, 2025, HIWU sent a letter to Appellant inquiring whether Appellant desires to have the B Sample analyzed, with a deadline of September 29, 2025. [AB, 144-148, at 146]

23. On September 25, 2025, Appellant requested analysis of the B Sample. [AB, 121, 160-165, at 160]

24. On October 2, 2025, UCD issued another Certificate of Analysis, reporting an AAF for the Covered Horse, based on a "blood sample" finding of methocarbamol. [AB 221]

25. Peculiarly, UCD's Certificate of Analysis, dated September 19, 2025, alleges that it tested a hair sample, whereas another UCD Certificate of Analysis, dated October 2, 2025, issued more than a month after the Covered Horse raced, claims that the blood sample was tested. [AB, 142, 221]

26. UCD's laboratory documentation package, if any, fails because no evidence was offered as to how the Covered Horse's blood sample held or stored in custody after the hair sample taken on September 19, 2025, until the blood sample was taken on October 2, 2025. [AB 142, 221; ABS, 306-344 (Heath)]

27. On October 10, 2025, Equine Integrity & Anti-Doping Sciences ("EQIAS") Laboratory in Lexington, Kentucky acknowledged receipt of the blood sample of the Covered Horse from UCD. [AB, 166]

28. The Covered Horse's B Sample was analyzed by EQIAS, which issued a Certificate of Analysis, on October 28, 2025, allegedly confirming the findings of UCD in A Sample, even though it allegedly tested for Lasix rather than methocarbamol. [AB, 166]

29. On November 3, 2025, based on detection of methocarbamol above the Screening Limit in the Covered Horse, HIWU provided to Appellant an A Sample laboratory documentation package of its analysis from UCD and the B Sample Certificate of Analysis from EQIAS. [AB 160-165]

30. On November 3, 2025, HIWU served Appellant with an ECM charge of Controlled Medication Rule Violation pursuant to ADMC Program Rule 3312. [AB, 123]

31. On November 3, 2025, Dr. Araujo signed a declaration under oath that was submitted as evidence to the Internal Adjudication Panel ("IAP") in support of Appellant. [AB, 3, 022- 038]

32. On November 6, 2025, Appellant requested a hearing before the IAP pursuant to Rule 3361 and such proceedings were initiated pursuant to HISA Rule 7020(b). [AB, 124]

33. On November 24, 2025, Appellant filed a Motion of Appellant to Obtain a DNA Sample from Certain Horse, Kikuride. [AB, 010-043, 124]

34. On December 3, 2025, HIWU filed HIWU's Response to Appellant's Motion to Obtain DNA Sample. [AB, 044-053]

35. On December 5, 2025, the IAP erroneously denied Appellant's Motion to Obtain DNA Sample. [AB, 054-055, 124, 245-251]

36. On February 3, 2026, Appellant filed a Motion of Appellant for Reconsideration of the Denial of Appellant's Previous Motion to Obtain DNA Sample. [AB, 229-240]

37. On February 4, 2026, HIWU filed HIWU's Motion to Strike Appellant's Motion for Reconsideration. [AB, 241-242]

38. On February 4, 2026, the IAP erroneously denied Appellant's Motion for Reconsideration. [AB 242, 245-251]

39. On February 17, 2026, the IAP hearing took place. [AB, 243-244, 245-251, 252-253]

40. At the hearing on February 17, 2026, Appellant again requested the IAP to allow DNA testing, expressing Appellant's willingness to pay all expenses. [ABS, 260:12-262:6; 298:3-299:14; 329:14-330:1; 345:6-21; 345:17-21]

41. On March 1, 2026, the Final Ruling of the IAP was issued against Appellant by IAP Member Julie Kagno and did not address Appellant's renew request for DNA testing. [AB, 245-251]

42. The IAP erroneously denied Appellant's contention that he established "No Fault or Negligence" in accordance with Rule 3324(a), notwithstanding that Appellant testified under oath

that he did not know or suspect, and could not have reasonably known or suspected, even with the exercise of the utmost caution, that the Covered Horse was over the limit for methocarbamol when she raced on August 31, 2025. [AB, 091-093, 245-251]

II. Proposed Conclusions of Law

1. The ALJ's determination pursuant to 15 U.S.C. §3058(b)(2)(A), as implemented in 16 C.F.R. 1.146, must be made *de novo*.

2. HIWU has not proven by admissible evidence that Appellant's "acts, practices or omissions" are in violation of HISA Rule 3312(b).

3. The IAP failed to determine under Rule 7260(d), the "admissibility, relevance, and materiality" of UCD's laboratory documentation package.

4. UCD's laboratory documentation package, if any, fails because no evidence was offered about the chain of custody as to how the Covered Horse's blood sample was taken on August 31, 2025, before arriving at the laboratory on September 3, 2025, and further between September 19, 2025, when hair sample was tested, and October 2, 2025, when blood sample was tested, in accordance with Rule 5510(b) and Rule 5520(a) and (b).

5. UCD's laboratory documentation package, if any, fails because no evidence was offered as to whether the Covered Horse's blood sample was received by UCD was properly secured in accordance with Rule 5510(b) and Rule 5520(a) and (b).

6. The departure by UCD from Rule 5510(b) is significant because Federal Rule of Evidence 901, which the ALJ may consider as guidance under Rule 7260(d), "requires accounting for [a blood] sample's handling from the time it was first collected until the time it was analyzed." *See* 77 A.L.R. 5th 201.

7. The IAP erroneously admitted in evidence the alleged A Sample and B Sample, with no witness to authenticate them, contrary to 16 C.F.R. 1.146(c)(6)(iii), which allows a party to present sworn oral testimony and documentary evidence but not by documentary evidence alone.

8. UCD's laboratory documentation package, if any, fails because it does not identify two Certifying Scientists' signatures, rather than two "analysts" signatures, on the laboratory documentation package or on the Certificate of Analysis, and be recorded, which constitutes a departure from the Laboratory Standards in Rule 6315(b).

9. The IAP erred by not requiring HIWU to provide evidence that the blood sample of the Covered Horse was authenticated or to prove the chain of custody.

10. Agencies, such as HISA and HIWU, may not violate its own rules, which it has chosen, especially when the internal procedures may be more vigorous than otherwise required. *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

11. Appellant has shown that the Final Ruling of the IAP, with the civil sanctions/ consequences, is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" under 15 U.S.C. § 3058(b)(2)(A)(iii).

12. HIWU failed to follow its own rules and regulations, including Rules 3121, 3122(c), 3312, 5510(b), 6308(b), 6309(e), 6315(b) and 7260(d), thereby denying Appellant due process. *Powell v. Heckler*, 789 F.2d 176, 178 (3d Cir. 1986).

13. The IAP erroneously found that Appellant did not sufficiently establish "No Fault or Negligence" in accordance with HISA Rule 3324, with Appellant recognizing that it does not apply to the Consequences of the Covered Horse (*i.e.*, disqualification and forfeiture of the purse money).

14. The IAP erred in not granting Appellant's multiple requests to obtain a DNA sample as clearly provided by the revisions and clarifications to existing Rule 3133.

Conclusion

After a *de novo* review, the Final Ruling of the IAP should be reversed and the charges against Appellant dismissed with prejudice.

PUBLIC

WORD COUNT AND SPECIFICATIONS CERTIFICATION

I, Lawrence D. Lewis, Esq. certify that the above Appellant's Legal Brief in Support of Proposed Findings of Fact and Conclusions of Law, Proposed Findings of Fact and Conclusions of Law and Proposed Order was prepared using a computer, Microsoft Word Program, in MS-Word (.doc/.docx) using Times New Roman 12-point Font, and in .pdf format. A word count was generated with the Microsoft Word program, and not including caption, cover page, signature blocks, table of contents, table of authorities, service documents, this document is 6,937 **words**, including footnotes.

Dated: May 1, 2026

/s/ Lawrence D. Lewis
Lawrence D. Lewis
Counsel for Appellant Craig A. Lewis

PUBLIC

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

ADMINISTRATIVE LAW JUDGE: Jay L. Himes

IN THE MATTER OF **CRAIG A. LEWIS,** **APPELLANT.**	**DOCKET NO. D-9447**

[PROPOSED] ORDER

Upon consideration of the appeal briefs submitted in this proceeding, the findings of fact and conclusions of law, the arguments of counsel for the parties at oral argument, and the record in this matter, pursuant to 16 C.F.R. § 1.146:

IT IS HEREBY ORDERED THAT the Final Ruling of the Internal Adjudication Panel ("IAP"), dated March 1, 2026, is VACATED; and

IT IS FURTHER ORDERED THAT all sanctions/consequences imposed by the Final Decision of the IAP, are hereby SET ASIDE and the matter against Appellant, Craig A. Lewis, is hereby dismissed with prejudice.

Date: _____

_____
Jay L. Himes
Administrative Law Judge

CERTIFICATE OF SERVICE

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of Appellant's Legal Brief in Support of Proposed Findings of Fact and Conclusions of Law, Proposed Findings of Fact and Conclusions of Law and Proposed Order is being served this 1st day of May 2026, via Federal Express:

Jay L. Himes
Federal Trade Commission
Northeast Regional Office
1 Bowling Green
Room 318
New York, NY 10004

I certify that no portion of the filing was drafted by generative artificial intelligence ("AI") (such as ChatGPT, Perplexity, Microsoft Copilot, Harvey.AI, or Google Gemini).

Dated: May 1, 2026

/s/ Lawrence D. Lewis
Lawrence D. Lewis
Counsel for Appellant Craig A. Lewis