

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

**ADMINISTRATIVE LAW JUDGE:**

**Hon. Jay L. Himes**

**IN THE MATTER OF:**

**JASON SCOTT, DVM,**

**Appellant.**

**Docket No. 9449**

**THE AUTHORITY'S REPLY TO APPELLANT'S PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND LEGAL BRIEF**

Comes now the Horseracing Integrity and Safety Authority, Inc. (“**HISA**” or the “**Authority**”) pursuant to the Administrative Law Judge’s Order Setting Briefing Schedule, dated May 15, 2026, and submits the following Reply to Appellant’s Proposed Findings of Fact, Conclusions of Law, and Legal Brief.

**CERTIFICATE OF SERVICE**

Pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), a copy of the Authority's Reply to Appellant's Proposed Findings of Fact, Conclusions of Law, and Legal Brief is being served on June 22, 2026, via Administrative E-File System and by emailing a copy to the below listed. I further certify that no portion of the filing was drafted by generative artificial intelligence ("AI") and any language in the filing that was drafted by generative AI was checked for accuracy by human attorneys or paralegals using printed legal reporters or online legal databases.

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/s/ Bryan H. Beauman  
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**REPLY TO APPELLANT’S PROPOSED FINDINGS OF FACT**

1. In early 2025, Sunland Park Racetrack in New Mexico hosted a “Mixed Meet” where (Covered) Thoroughbreds and (Non-Covered) Quarter Horses raced on alternating days. Both breeds were stabled at the racetrack. Thoroughbreds raced on February 13. Quarter Horses raced on February 14 and 15.

- No response.

2. On February 13, Dr. Scott intended to treat eight Quarter Horses stabled at the racetrack with a pre-race treatment protocol. All were scheduled to race on February 14 or 15.

- No response.

3. The protocol involved pre-race administrations of Sarapin and AMP at forty-eight and twenty-four hours, respectively, together with other management strategies for the prevention of rhabdomyolysis and other common post-race conditions.

- No response.

4. Between January 1 and February 12, Dr. Scott used this protocol on at least 49 horses, most of which were stabled at Sunland Park at the time of treatment.

- No response.

5. Dr. Scott used this protocol exclusively for Quarter Horses and has never used either medication on a Covered Horse.

- Neither Pitcher Plant nor AMP can be detected in Post-Race Testing.<sup>1</sup> Dr. Scott possessed AMP and Pitcher Plant on a day of Covered Horseracing.<sup>2</sup> He had already treated a Covered Horse on the morning of the search.<sup>3</sup>

6. Rhabdomyolysis (“tying up”) is a life-threatening condition that can occur in response to intense physical exertion (e.g., racing) and can affect as many as 1 in 20 horses if not managed.

- No response.

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<sup>1</sup> AB 5830:20-5831:11 (Benson Testimony).

<sup>2</sup> AB 5231 (Scott Statement ¶ 7).

<sup>3</sup> AB 6312:9-6313:16 (Scott Testimony).

7. No FDA-approved treatments for the prevention of rhabdomyolysis in racehorses exist, and no alternative treatments exist that would not also trigger an anti-doping violation.

- Rhabdomyolysis can be treated with FDA-approved tranquilizers and non-steroidal anti-inflammatories combined with fluid therapy, feed evaluation, rest, and stress reduction.<sup>4</sup> Preventative measures include changes to feeding, training, and managing the horse, as well as medications like acepromazine,<sup>5</sup> phenytoin, and dantrolene, which are FDA approved, although not specifically for rhabdomyolysis in horses.<sup>6</sup>
- Pitcher Plant is not an FDA-approved human or animal drug and has no efficacy as a treatment. It has FDA-approved alternatives that Veterinarians can possess under the ADMC Program.<sup>7</sup>

8. Both Sarapin and AMP have been used as routine pre-race medications for over four decades by virtually all racetrack veterinarians in New Mexico.

- The New Mexico Racing Commission (the “NMRC”) Executive Director Ismael Trejo had no knowledge of this and stated that veterinarians are “not supposed to have it” on New Mexico racetracks.<sup>8</sup>

9. As of February 13, 2025, using Sarapin and AMP was considered the standard of pre-race care for Quarter Horses in New Mexico.

- The standard of care involves methods and medications to prevent and treat tying up.<sup>9</sup> The NMRC bans possession of both compounded substances on racetrack grounds. Dr. Scott’s expert, Clara Fenger, wrote that “anecdotally” she had heard of

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<sup>4</sup> AB 2044 (Benson Report ¶ 25).

<sup>5</sup> AB 5872:23-5873:13 (Benson Testimony).

<sup>6</sup> AB 2044 (Benson Report ¶ 25).

<sup>7</sup> AB 5519 (Benson Supplemental Report ¶ 40).

<sup>8</sup> AB 5761:13-16; 5768:15-21 (Trejo Testimony).

<sup>9</sup> AB 248-251 (Benson Report ¶¶ 31-36); 5849:1-5856:5 & 5872:23-5873:13 (Benson Testimony).

Adenosine use to treat rhabdomyolysis.<sup>10</sup> Notably, Adenosine and AMP are different substances.<sup>11</sup> No scientific literature supports the use of AMP to treat rhabdomyolysis.<sup>12</sup>

10. Sarapin is a naturally occurring substance used as an adjunct to NSAIDs and can serve the same purposes as NSAIDs. Accordingly, Sarapin can form part of a routine pre-race protocol or be used for acute treatment for osseous or soft-tissue problems.

- Pitcher Plant (Sarapin) is not an FDA-approved human or animal drug and has no efficacy as a treatment. Both HISA and the NMRC ban it on racetrack grounds, and it has legal alternatives.<sup>13</sup>

11. AMP is a naturally occurring substance. It is a component of DNA and is a vital part of cell metabolism.

- AMP is a component of RNA, not DNA.<sup>14</sup>

12. Neither Sarapin nor AMP have the capacity to change the normal physiological performance of a racehorse.

- AMP is “believed to be an energy source.”<sup>15</sup> With Pitcher Plant, the active ingredient is unknown.<sup>16</sup>

13. In 2014, Dr. Scott submitted AMP to the NMRC medication committee for classification. The ARCI did not classify the substance.

- No response.

14. Substances are not included on the ARCI Classification Schedule if they have no capacity to influence racing performance. AMP and Sarapin are excluded for that reason.

- Substances are also not listed if no test exists to detect the substance.<sup>17</sup>

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<sup>10</sup> AB 5264 (Fenger Report ¶ 26).

<sup>11</sup> AB 5512 (Benson Supplemental Report ¶ 17).

<sup>12</sup> AB 246 (Benson Report ¶¶ 24-25); 5516 (Benson Supplemental Report ¶ 32).

<sup>13</sup> AB 5519 (Benson Supplemental Report ¶ 40).

<sup>14</sup> AB 7255 (Fenger Report ¶ 21).

<sup>15</sup> AB 5964:3-18; 5970:3-12 (Benson Testimony).

<sup>16</sup> AB 5971:16-17 (Benson Testimony).

<sup>17</sup> AB 3777 (ARCI Classification schedule).

Additionally, the ARCI identifies the possession of a drug, substance, or medication under the jurisdiction of a regulatory body that has not been approved by the FDA as a “prohibited practice.”<sup>18</sup> Both AMP and Pitcher Plant cannot be detected in Post-Race Testing<sup>19</sup> and lack FDA approval.<sup>20</sup>

15. The use of Sarapin and AMP was widespread, open, notorious, and known to NMRC at all relevant times.

- The testimony did not support this statement. Mr. Trejo did not agree with this view.<sup>21</sup> New Mexico Administrative Code §15.2.6.8(B)(10) (the NMRC’s “compounding rule”) bans veterinary possession of these substances.<sup>22</sup>

16. NMRC has never treated AMP or Sarapin as “prohibited substances” or restricted a veterinarian’s possession or use of either medication. To this day, NMRC has taken no action against Dr. Scott or any other veterinarian for possessing or using either substance.

- The NMRC’s compounding rule prohibits veterinarians from possessing compounded medications unless certain conditions are met. Neither Pitcher Plant nor AMP meet those conditions and thus are prohibited on racetrack grounds.<sup>23</sup>

17. Before this case, Dr. Scott’s only violation was an inadvertent Lasix administration to the wrong horse, which he self-reported.

- No response.

18. On February 13, 2025, HIWU investigator Brian Bennett conducted a targeted search of Dr. Jason Scott’s mobile-practice vehicle at the Sunland Park Racetrack, during which he seized four bottles, two each labeled “Pitcher Plant” and “Adenosine Monophosphate.” The labels on all four bottles reference an accompanying “insert.”

- The record does not establish that this was a “targeted” search.

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<sup>18</sup> AB 3778 (ARCI Classification schedule).

<sup>19</sup> AB 5830:20-5831:11 (Benson Testimony).

<sup>20</sup> AB 5519-5521 (Benson Supplemental Report ¶¶ 41-49).

<sup>21</sup> AB 5768:15-21 (Trejo Testimony).

<sup>22</sup> AB 5858:2-5860:24. (Benson Testimony). In the transcript, some examples that Dr. Scott gives are from before the compounding rule went into effect in 2018, such as the search involving Dr. Benson.

<sup>23</sup> AB 7068 (NMAC); 5861:11-5863:6 & 5865:19-5868:7 (Benson Testimony); 5519-5521 (Benson Supplemental Report ¶¶ 41-49).

19. Dr. Scott immediately informed Mr. Bennett that the medications were intended exclusively for use on Quarter Horses and has maintained that explanation to this day.

- Dr. Scott has provided shifting explanations for why he possessed the Banned Substances at issue. During the search, Dr. Scott stated that he used Pitcher Plant for “sacroiliac issues” and AMP for tying up in Quarter Horses.<sup>24</sup> In a letter to HIWU, Dr. Scott wrote that he used AMP in Quarter Horses “who exhibit acute exertion with rhabdomyolysis” and kept AMP on his truck for “exigency treatment of Quarter Horses.”<sup>25</sup> At the hearing, Dr. Scott testified that he gave Pitcher Plant and AMP to non-Covered Horses as part of a pre-race routine that involved giving Pitcher Plant two days before a race and AMP one day before a race as a prophylactic measure.<sup>26</sup>

20. After receiving advice from NMRC officers that AMP and Sarapin were not prohibited, Dr. Scott confronted Mr. Bennett at the Sunland Park Test Barn and requested he return the medication specifically so that he could treat Quarter Horses stabled at the racetrack. Mr. Bennett refused to return the medications, thereby preventing the treatments from occurring.

- Dr. Scott contacted Dr. Joan D’Alonzo that morning.<sup>27</sup> It is not clear what Dr. Scott told D’Alonzo, as the text messages show only D’Alonzo’s response. D’Alonzo responded that “I don’t see anything in the New Mexico rules . . .” and “you have to follow federal guidelines regarding controlled substances and compounded products.” The response did not address HISA regulations or New Mexico’s compounding rule.<sup>28</sup>

21. In response to Dr. Scott’s explanation, HIWU attorney Allison Farrell sought and obtained an ex parte legal ruling about this case from NMRC Executive Director Ismael Trejo, which declared the possession and use of Sarapin and AMP illegal. HIWU recast the ruling as Mr. Trejo’s “personal” legal opinion after its ex parte origin was exposed.

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<sup>24</sup> AB 5640:2-18 (Bennett Testimony).

<sup>25</sup> AB 136-137 (Scott Letter to HIWU).

<sup>26</sup> AB 5232-5233 (Scott Statement ¶¶ 17, 22); 5238-5257; 6323:11-21 (Scott Testimony).

<sup>27</sup> AB 6257:2-9 (Scott Testimony).

<sup>28</sup> AB 5505 (Text Messages with Dr. D’Alonzo).

- In researching Dr. Scott’s asserted compelling justification, HIWU Senior Litigation Counsel Allison Farrell contacted Mr. Trejo about New Mexico’s rules concerning these Banned Substances. Mr. Trejo agreed to provide a letter for this case stating—consistent with New Mexico law—that the NMRC’s compounding rule prohibited AMP and Pitcher Plant on racetrack grounds. Mr. Trejo’s letter was not an *ex parte* legal ruling.<sup>29</sup> Indeed, Dr. Scott asked for a similar letter, but the NMRC did not provide one because it did not agree with his position.<sup>30</sup>

22. In response to this action, Dr. Scott has since stopped the use of AMP and Sarapin in pre-race treatment protocols for Quarter Horses. As a result, his horses have suffered emergency and exigent conditions during or following a race.

- There was no testimony that this was “as a result” of the change in any pre-race protocol or what the emergency or exigent conditions were.

### **RULINGS ON OBJECTIONS**

23. HIWU Exhibit E, the “Trejo Letter” and Trejo’s testimony on the same subject matters are excluded. The Trejo Letter falsely purports to be an agency legal opinion. Trejo’s “lay” legal opinions are irrelevant, lack foundation, and are inadmissible.

- The “rulings on objections” are beyond the scope of the Order Directing Briefing. The letter does not falsely report to be an agency legal opinion. Under ADMC Program Rule 7260, “conformity to legal rules of evidence shall not be necessary.” The NMRC Executive Director’s testimony and letter are highly relevant and admissible to discuss whether veterinary possession of the Banned Substances is permissible on New Mexico racetracks.

24. The following opinions and testimony by Dr. Dionne Benson’s are excluded as inadmissible legal opinions and for lack of foundation:

- a. the medications in Dr. Scott’s possession did not comply with GFI#256;

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<sup>29</sup> AB 5402-5404 (Affidavit of Allison Farrell); AB 5733-5739 (Trejo Testimony).

<sup>30</sup> AB 5758:20-5760:4 (Trejo Testimony); AB 5403 (Farrell Affidavit ¶ 15); 5505-5506 (text messages from Dr. Scott to D’Alonzo in reference to this request).

- b. the billing records are not “medical records”; and
- c. AMP and Sarapin are prohibited under NMRC rules and regulations.

- The “rulings on objections” are beyond the scope of the Order Directing Briefing. Under ADMC Program Rule 7260, “conformity to legal rules of evidence shall not be necessary.” In any event, Dr. Benson is well-qualified to offer opinion testimony on these topics, as shown on her CV and in her testimony. She has a JD, DVM, and a Master’s degree in animal welfare and behavior. She has served as the Executive Director for the Racing Medication and Testing Consortium, worked as a regulatory veterinarian for the Kentucky Horse Racing Commission, and works as the Chief Veterinary Officer for the Stronach Group. She is admitted as a veterinarian in multiple states, including New Mexico. She practiced as a lawyer for seven years. She has previously testified as an expert witness for HIWU, including in the *Overly* and *Shell* cases.<sup>31</sup>

25. Dr. Dionne Benson lacks the qualifications, experience, and training to offer medical opinions regarding the pre-race treatment of Quarter Horses. Though *Daubert* does not strictly apply, the Court follows the “spirit” of *Daubert* and gives no weight to Dr. Benson’s (withdrawn) opinion that AMP and Sarapin are not “medically necessary” for Quarter Horses.

- The “rulings on objections” are beyond the scope of the Order Directing Briefing. Under ADMC Program Rule 7260, “conformity to legal rules of evidence shall not be necessary.” In any event, Dr. Benson is well-qualified to offer opinion testimony on these topics, as shown on her CV and in her testimony. Dr. Benson did *not* withdraw her opinions.

26. Citations and references to the foregoing in the Authority’s briefing, findings of fact, and conclusions of law will be disregarded.

- No basis exists for this proposed ruling.

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<sup>31</sup> AB 5822:5-5833:21 (Benson Testimony); AB 2051-2061 (CV).

## CONCLUSIONS OF LAW

27. The Authority has the burden to establish a violation of Rule 3214(a), which prohibits Possession absent a “compelling justification.”

- Compelling justification is an affirmative defense that Dr. Scott must prove by a preponderance of the evidence.<sup>32</sup>

28. Jurisdiction is an element of every anti-doping violation. The absence of jurisdiction is never an affirmative defense. The Authority bears the burden to prove jurisdiction.

- No response.

29. Though the Authority has the jurisdiction to investigate Possession by a Covered Person, it has no jurisdiction to regulate what medications veterinarians can carry as part of their non-Covered Practice.

- ADMC Program Rule 3412(a) regulates the Possession of Banned Substances by Covered Persons, including Covered Veterinarians. To possess a Banned Substance, a Covered Person must demonstrate a compelling justification. Mere reference by a Veterinarian to a non-Covered practice is not sufficient.<sup>33</sup>

30. There is no genuine dispute that the medications were Possessed as part of Dr. Scott’s Quarter Horse Practice at Sunland Park, and that he intended to use the medications exclusively for Quarter Horses stabled at the racetrack on the day of the Search. The Authority did not meet its burden to produce affirmative proof of jurisdictional facts, so the charges must be dismissed.

- The Authority disagrees that no genuine dispute exists. HIWU had jurisdiction because Dr. Scott possessed two Banned Substances while at a Covered Racetrack (on a day of only Covered Horseraces).<sup>34</sup> Dr. Scott had treated a Covered Horse the

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<sup>32</sup> See *In the Matter of Larry Rickman Overly*, FTC Docket No. 9443 (Jan. 27, 2026) at 11-12.

<sup>33</sup> See *In the Matter of Dr. Donald McCrosky*, FTC Docket No. 9448 (June 2, 2026) at 16; *In the Matter of Dr. Scott Shell, DVM (“Shell IP”)*, FTC Docket No. 9439 (March 6, 2025) at 16; *In the Matter of Luis Jorge Perez*, FTC Docket No. 9420 (Feb. 7, 2024) at 9; *Overly* at 51-60.

<sup>34</sup> See 15 U.S.C. §§ 3051(4), (5), (6), (21); Rule 1020 (definitions of “Covered Horse,” “Covered Horseraces,” “Covered Person,” and “Veterinarian”).

morning before the search.<sup>35</sup> He had Pitcher Plant in a blue “go tote.”<sup>36</sup> The substances had no labels indicating they were only for non-Covered Horses.

31. The result is the same under the “compelling justification” test. Dr. Scott corroborated his explanation with records, testimony, circumstantial inference, and expert testimony establishing (1) the existence of the protocol, (2) its purposes; (3) its consistency with the standard of care in the community, and (4) its exclusive application to Quarter Horses. The Authority disputes none of these points.

- This paragraph is not a conclusion of law. In any event, HIWU has disputed Dr. Scott’s compelling justification defense throughout this case. Dr. Scott did not meet his burden to prove a compelling justification. He provided shifting explanations for why he needed to possess the two Banned Substances.<sup>37</sup> He submitted redacted billing records that showed a horse receiving duplicate doses of Pitcher Plant and AMP without a therapeutic rationale.<sup>38</sup> The unredacted records, produced mid-hearing, showed 17 “bute” administrations in violation of NMRC rules.<sup>39</sup> In addition, possession of Pitcher Plant and AMP is prohibited under the NMRC’s compounding rule.<sup>40</sup>

32. The Authority cannot indirectly regulate Dr. Scott’s undisputed, non-Covered racetrack practice by litigating whether such conduct was “legal” or “legitimate” under state law. The Authority’s arguments have no tendency to disprove Dr. Scott’s explanation.

- The Authority regulates possession by Covered Persons.<sup>41</sup> It does not regulate non-Covered practices. Dr. Scott raised the affirmative defense that his Possession was justified by his non-Covered Practice. In that regard, whether the NMRC permits

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<sup>35</sup> AB 6312:9-6313:16 (Scott Testimony).

<sup>36</sup> AB 5638:2-14 (Bennett Testimony).

<sup>37</sup> Compare AB 5232-5233 (Scott Statement ¶¶ 17, 22) with AB 137 (Scott Letter to HIWU).

<sup>38</sup> AB 5252; 6338:13-6339:18 (Scott Testimony).

<sup>39</sup> AB 7188 ¶3(a); AB 6304:13-6310:20 (Scott Testimony, noting 13 times); AB 6407:4-6408:9 (clarifying 17 times); 7112 (New Mexico Administrative Code); 7126 (ARCI Guidelines).

<sup>40</sup> AB 5519-5521 (Benson Supplemental Report ¶¶ 41-49).

<sup>41</sup> Perez at 9.

veterinarians to possess AMP and Pitcher Plant at racetracks is highly relevant to Dr. Scott's purported compelling justification.<sup>42</sup>

33. Regardless, the Court predicts that Dr. Scott's defense to any NMRC action would likely succeed. If the Authority disagrees, it is free to refer the matter to NMRC. It is notable, however, that the agency has been apprised of the matter and has elected to take no action.

- The ALJ's role here is to determine whether Dr. Scott committed an Anti-Doping Rule Violation and whether the final civil sanction was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. It is not to predict the results of hypothetical NMRC actions.<sup>43</sup>

34. Dismissal is independently required because Rule 3214(a) was not lawfully promulgated and is arbitrary and capricious.

- This argument is outside the scope of review.<sup>44</sup> In any event, ADMC Program Rule 3214(a) was lawfully promulgated and is not arbitrary and capricious.<sup>45</sup>

35. Dismissal is independently required because, as to Possession, the Act delegates the discretion to choose among "countless alternatives," which is, by definition, an unconstitutional delegation of legislative power.

- The Act is not an unconstitutional delegation of legislative power.<sup>46</sup>

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<sup>42</sup> See *Overly* at 26 (noting as relevant to the compelling justification analysis that a substance was also Banned under state rules).

<sup>43</sup> See [15 U.S.C. §3058\(b\)\(2\)\(A\)](#); [16 C.F.R. § 1.146\(b\)](#).

<sup>44</sup> See [15 U.S.C. §3058\(b\)\(2\)\(A\)](#); [16 C.F.R. § 1.146\(b\)](#).

<sup>45</sup> See AB 2728-2794 (FTC Approval Order).

<sup>46</sup> See *Oklahoma v. United States*, 163 F.4th 294, 308-16 (6th Cir. 2025).

## **REPLY BRIEF**

### **I. The Authority had Jurisdiction**

The Authority had jurisdiction over Dr. Scott because he is a Covered Person possessing Banned Substances at a Covered Racetrack on a day of Covered Horseracing. The Authority relies on Section III.A of its supporting legal brief.

### **II. Dr. Scott's Explanation Alone is Not a Compelling Justification**

Dr. Scott argues that his non-Covered practice explanation must be accepted as a compelling justification without further inquiry. According to him, the Authority cannot assess the “merits” of whether his treatments are “legal” or “legitimate,” or “force him to justify his medical reasoning.”<sup>47</sup> His argument has already been flatly rejected.<sup>48</sup>

In any event, the Authority is neither regulating his non-Covered practice nor forcing him to reveal anything. He chose to possess Banned Substances, and he bears the burden to prove his compelling justification with “powerful and convincing” evidence.<sup>49</sup> He has not done so.

### **III. Dr. Scott Failed to Meet his Burden to Prove Compelling Justification**

Dr. Scott did not meet his burden to prove a compelling justification. Although the Authority relies on Section III.B of its supporting legal brief, two points are worth noting.

First, Dr. Scott repeatedly asserts that the “Authority does not dispute” points that the record shows are very much in dispute. For example, Dr. Scott asserts that the Authority does not dispute that Dr. Scott “exclusively intended to use the medication on non-Covered horses . . . in a

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<sup>47</sup> Scott Brief ¶ 21.

<sup>48</sup> See *Perez* at 9 (rejecting claim that a veterinarian can “establish a ‘compelling justification’ for possession solely by demonstrating that the veterinarian’s practice includes non-covered horses, without any further evidentiary inquiry”).

<sup>49</sup> See *Shell II* at 15.

manner consistent with the standard of care at the time[.]”<sup>50</sup> That brazenly misstates the Authority’s position. HIWU has disputed Dr. Scott’s position throughout this entire litigation, and much of the arbitration hearing focused on this purported justification. While the Authority has no evidence that Dr. Scott used these substances on Covered Horses, there is evidence that he had the substances with him when he treated a Covered Horse the morning of the search. Moreover, these substances cannot be detected in Post-Race Testing, so enforcing the Possession rule is the only way to prevent their use on Covered Horses. The Authority likewise disputes that these substances can be the “standard of care” when New Mexico law prohibits them on racetrack grounds.

Second, Dr. Scott spills much ink on tangential arguments but ignores the crux of the issue: Dr. Scott provided shifting explanations and problematic billing records—including records revealing numerous apparent “bute” violations—for why he possessed two Banned Substances that New Mexico law also prohibits on racetrack grounds. For example, he points to New Mexico’s separate “Possession” rule because it excludes veterinarians, but he ignores the compounding rule in NMAC §15.2.6.8(B)(10)—which undoubtedly applies to veterinarian possession of compounded medications. He also spends much time attacking Mr. Trejo and Dr. Benson,<sup>51</sup> but he ignores the substance of their testimony: that the NMRC bans veterinarians from possessing compounded substances like AMP and Pitcher Plant on racetrack grounds. Finally, in both sections of his brief discussing compelling justification, Dr. Scott never references the problematic billing records he put forward to justify his Possession of Banned Substances.<sup>52</sup>

Dr. Scott wants this case to be about everything except why he possessed Banned

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<sup>50</sup> Scott Brief ¶ 18.

<sup>51</sup> Dr. Scott asserts that Dr. Benson “withdrew most of her opinions.” Scott Brief ¶ 34. That did not happen, and the transcript speaks for itself on this point.

<sup>52</sup> See Scott Brief ¶¶ 16-34.

Substances. The burden to prove a compelling justification is on him, and he clearly did not meet that burden here.

**IV. The Possession Rule is Not Void**

The Possession Rule is not void for rulemaking violations or as arbitrary and capricious. The Authority relies on its response in Section III.C of its supporting legal brief.

**V. The Act is Not an Unconstitutional Delegation of Legislative Power**

The Act is not an unconstitutional delegation of legislative power. The Authority relies on its response in Section III.D. of its supporting legal brief.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 22nd day of June, 2026.

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