PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9450

ADMINISTRATIVE LAW JUDGE: **HON. DANIA L. AYOUBI**

IN THE MATTER OF:

JENA ANTONUCCI **APPELLANT**

THE AUTHORITY'S REPLY TO APPELLANT'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER, AND SUPPORTING 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 14, 2026, and submits the following Reply to Appellant's Findings of Fact, Conclusions of Law, Order, and Supporting 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, Order and Supporting 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.

Hon. Dania L. Ayoubi
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:
Hon. Dania L. Ayoubi
Administrative Law Judge
FTC OALJ
Mail Stop HQ-144
c/o Brightkey Inc.
9050 Junction Drive
Annapolis Junction, MD 20701

April Tabor
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580
Via email: electronicfilings@ftc.gov

Howard L. Jacobs, Esq.
Katlin N. Freeman, Esq.
Law Offices of Howard L. Jacobs
31111 Agoura Rd., Suite 225
Westlake Village, CA 91361
via email to howard.jacobs@athleteslawyer.com
katy.freeman@athleteslawyer.com

Counsels for the Appellant

/s/ *Bryan Beauman*
Enforcement Counsel

THE AUTHORITY'S REPLY TO APPELLANT'S PROPOSED FINDINGS OF FACT

1. Appellant became a licensed horse trainer in 2008 in the State of Florida. **Appellate Book ["AB"], p. 415:14-416:6 (Antonucci)**. Appellant currently trains horses that race at Gulfstream Park in Hallandale, Florida. **AB, p. 105; AB, p. 418:22-419:10 (Antonucci**).

- No response to the date of Appellant's licensure. HISA agrees that Appellant currently trains horses that race at Gulfstream Park.

2. In her nearly two decade career, prior to October 2025, Appellant has never been charged with a violation of any racing rules or regulations and had never been charged with a violation of any medication or anti-doping rules. **AB, p. 418:1-14**.

- No response to violations prior to the inception of the ADMC Program. HISA agrees that the instant violation is Appellant's only Charge in violation of ADMC Program Rules.

3. On June 14, 2025, Appellant was the Trainer of record and Responsible Person for Covered Horse, Bee a Queen ("**Covered Horse**"). **AB, p. 40**.

- Agreed.

4. On June 14, 2025, the Covered Horse placed first in Race 4 held at Gulfstream Park in Florida. **AB, p. 42**.

- Agreed.

5. On June 14, 2025, blood Sample #B200011290 was collected from the Covered Horse. **AB, p. 44**.

- Agreed.

6. Testing of the Covered Horse's June 14, 2025 "A" blood Sample ("**June 14, 2025 Sample**") was conducted by Industrial Laboratories ("**Industrial**"). **AB 47-193**. On June 30, 2025,

Industrial reported that the June 14, 2025 Sample was found to contain .119 ng/mL of 3-hydroxylidocaine, a metabolite of Lidocaine, a Class B Controlled Medication Substance. **AB, p. 82; p. 86; p. 97**.

- Agreed in part. Industrial's Certificate of Analysis, dated June 30, 2025, states only: "3-hydroxylidocaine confirmed in blood." No estimated concentration level is reported. Appellant's expert, Professor Kintz, testified that the estimated concentration level of 3-hydroxylidocaine was 0.119 ng per mL.[1]

7. On July 8, 2025, HIWU served Appellant with a Notice of an Alleged Equine Controlled Medication Violation ("**ECM Notice**"). **AB, p. 84-88**. The ECM contained an option for Appellant to request testing of the "B" sample. **AB, p. 86**.

- Agreed.

8. Appellant requested testing of the "B" sample on July 13, 2025 (**AB, p. 95**), and provided an initial explanation on July 19, 2025. **AB, p. 100-108**.

- Agreed in part. Appellant's initial response was on July 9, 2025, when she emailed HIWU and stated she was "obviously shocked beyond words to receive notification."[2] Appellant requested analysis of the B Sample on July 13, 2025. She emailed HIWU again on July 19, 2025, and provided a more detailed response and explanation.[3]

9. Testing of the Covered Horse's June 14, 2025 "B" Sample was conducted by Ohio's Analytical Toxicology Laboratory ("**Ohio Laboratory**"). **AB 119-194**. On August 28, 2025, the

[1] HISA's Appeal Book ("**AB**"), p. 408, lines 8-20 (Tab 16, Transcript) (Mitchell, Kintz).
[2] AB, p. 97 (Tab 6, Email Response to ECM Notice).
[3] AB, p. 100 (Tab 6, Email dated July 19, 2025).

Ohio Laboratory confirmed the presence of 3-hydroxilidocaine in the June 14, 2025 Sample. **AB, p. 194**.

- Agreed.

10. On October 7, 2025, HIWU charged Appellant with a violation of Anti-Doping Medication Control ("ADMC") Rule ("Rule") 3312, Presence of a Controlled Medication Substance and/or its Metabolites or Markers in a Post-Race Sample. **AB, p. 196-200**.

- Agreed.

11. By email dated October 6, 2026, Appellant requested a hearing before the Internal Adjudication Panel ("IAP"). **AB, p. 242**.

- Agreed.

12. Appellant generally has 20-25 employees, consisting of a lead assistant, riders, grooms, foremen and hot walkers. **AB 417:8-24 (Antonucci).**

- This is Appellant's claim.

13. Appellant testified about the process of selection of Racing Support Staff Members ("**RSSM**") at Gulfstream Park, specifically, stating that a condition book is issued which tells you the list of RSSM, and from which a trainer can "find [RSSM] that we feel suit your barn and are going to try hard for you and have, you know honest efforts in riding." **AB 420:15-421:6 (Antonucci)**. Appellant also testified that an RSSM is always contacted through their agent, and that communication with the RSSM is "only race day in the paddock when they come out." **AB 421:9-422:5 (Antonucci).**

- Agreed.

14. Appellant testified that she was "very upset" on receiving notice of the June 14, 2025 positive test. Appellant testified that she has never used lidocaine herself and has never administered lidocaine to any horse. **AB 423:8-424:9 (Antonucci)**.

- Agreed.

15. Appellant testified that she spoke with her veterinarians, at TFB Equine, immediately upon receiving notice of the positive test. **AB 423:8-424:9 (Antoucci); AB, p. 109; AB, p. 110**. Appellant was informed that the practice does not use lidocaine in Florida because of prior issues and have swapped to a different sedative.

- Agreed in part. Appellant referred to "[t]he practice" but did not provide the name of the practice in her testimony.[4] The practice was identified in the letters provided by Ms. Antonucci on July 19, 2025.[5]

a) Practice president, Dr. Scott Hay provided a statement in which he stated that he had conducted a thorough search of the Covered Horse's medical record dating back to April of 2024 and found no instances of lidocaine administration to the horse. Further, Dr. Hay confirmed that their veterinary practitioners in Florida and New York rarely if ever use lidocaine, and that no topical medications they possess contains lidocaine. **AB, p. 109; p. 111-113**.

- Agreed in part. Dr. Hay authored a letter provided by Appellant in response to the Notice Letter.[6] No statement from Dr. Hay was provided by Appellant for the purpose of the IAP hearing.

[4] AB pp. 423-424, lines 8-9 (Tab 16, Transcript) (Antonucci, Jacobs).
[5] AB pp. 109-110 (Tab 6, Email Response to ECM Notice).
[6] AB p. 109 (Tab 6, Email Response to ECM Notice).

b) Appellant's daily practitioner, Dr. Drew Upright, also provided a statement, in which he stated that he has worked with Appellant for over 7 years and as primary veterinarian at Gulfstream Park for the past 3 years; that he personally administers Appellant's injectable pre-race medications; that neither he nor any of his associates at Gulfstream Park possess lidocaine; and that review of the Covered Horse's medical history revealed no instances in which lidocaine was used. **AB, p. 110; p. 111-113**.

- Agreed in part. Dr. Upright authored a letter provided by Appellant in response to the Notice Letter.[7] No statement from Dr. Upright was provided by Appellant for purpose of the IAP hearing.

c) Appellant provided TFB Equine records for the Covered Horse for the period of May 6, 2025 to June 14, 2025 establishing that the Covered Horse was not administered Lidocaine during that time. **AB, p. 111-113.**

- HISA disagrees to the extent that absence of the administration of Lidocaine from these records definitively establishes that Bee a Queen was not administered Lidocaine during that time. It is agreed that the records do not reflect an administration of Lidocaine.

16. Appellant also spoke with each person working the day of June 14, 2025, and confirmed that no team member used any topical ointment or comparable containing lidocaine on race day. **AB, p. 104**. Appellant testified that she keeps cameras in the barn, which she checked during her investigation. **AB, p. 426:11-22**.

[7] AB p. 110 (Tab 6, Email Response to ECM Notice).

- Disagreed in part. Appellant provided multiple statements from Mr. Morales stating that he used Lidocaine on June 14, 2025.[8]

17. After conducting her own investigation, Appellant reached out to a Racing Support Staff Member ("**RSSM**")[9] who had worked with the Covered Horse on the date of sample collection. The RSSM provided a sworn statement, dated November 11, 2025, stating as follows:

a) The RSSM cared for the Covered Horse on June 14, 2025. **AB, p. 12 ¶ 3; AB, p. 42**.

- Agreed.

b) His massage therapist had applied Healthwise Lidocaine to him to assist with soreness. **AB, p. 12, ¶ 3.**

- Agreed.

c) Another horse he had worked with, for trainer John Vinson, had also tested positive for lidocaine approximately one month later. **AB, p. 13, ¶ 6**. Appellant confirmed that she was contacted by John Vinson's mother following his horse Money Trail's July 2025 positive test. **AB, p. 432:8-433:8 (Antonucci); AB p. 372:20-24**.

- Agreed.

18. On November 25, 2025, HIWU submitted its Written Submission and Evidence. In its Written Submission, HIWU conceded that Appellant had provided evidence of the likely source of 3-Hydroylidocaine in Bee a Queen's Sample. **AB, p. 33, ¶ 4.**

[8] *See* AB p. 12 (Tab 4, Witness Statement of Jose Morelos – Dated November 11, 2025); AB p. 336 (Tab 10, Second Witness Statement of Jose Morelos – Dated March 13, 2026).
[9] Appellant's Proposed Findings footnotes the following: "The RSSM is an independent contractor who has worked with Appellant's race day staff on occasion." HISA disagrees as the ADMC Program Rules do not distinguish between employees and independent contractors.

- Disagreed in part. In HIWU's Written Submission, HIWU provided: "While Trainer Antonucci has provided evidence of the likely source of 3-Hydroxylidocaine in Bee a Queen's Sample, **this does not relieve her of her obligations under the ADMC Program**."[10] The remainder of the paragraph elaborated on Appellant's obligations and burdens of proof which had not been met. HIWU's comment that Appellant submitted, or provided, evidence does *not* mean that "HIWU conceded" that Appellant had proven source.

19. Professor Pascal Kintz provided an Expert Report, dated December 9, 2025, in which he concludes that it is more likely than not that the June 14, 2025 positive test is the "direct consequences of a cross-contamination that involves drug transfer via skin and sweat." **AB, p. 20**.

- Agreed.

a) Professor Kintz serves as Professor of Legal Medicine at the Institute of Legal Medicine, University of Strasbourg, where he is head of the Laboratory of Toxicology. **AB, p. 383:2-8 (Kintz)**. A biologist specialized in pharmacology and toxicology, he worked in anti-doping regularly since 1998. **AB, p. 383:7-24 (Kintz)**. Prof. Kintz has served as an expert in a number of high profile anti-doping cases in which he was retained to offer opinions as to the likely cause of a positive doping test, **AB, p. 385:1-8 (Kintz)** including in equine cases before the Court of Arbitration for Sport. **AB, p. 387:4-388:14 (Kintz)**.

- Agreed.

b) Professor Kintz testified that he was initially contacted by HISA General Counsel, Sam Reinhardt, with respect to Appellant's case, and was asked to explain if it's

[10] AB p. 33 ¶ 4 (Tab 6, HIWU's Written Submission) (emphasis added).

possible that the positive result was due to transfer from someone using the prohibited substance. **AB, p. 388:17-390:12 (Kintz).**

- Agreed.

20. Prof. Kintz explains the mechanism of transdermal transfer of lidocaine, in which topical lidocaine, intended for localized delivery, can be transferred to the blood stream and distributed throughout the body. **AB, p. 18.** That Lidocaine is detectable in blood after topical exposure, **AB, p. 18**, and can be stored on the skin after massage if not washed. **AB, p. 18**.

- Agreed.

21. Prof. Kintz also identified a number of anti-doping cases in which drug transfer between a user and non-user of a substance has been proven, including:

a) Assisting in the application of medications, even by rubbing and ointment onto partner's back or administering drugs to an animal can result in the presence of a prohibited substance. **AB, p. 19**.

- This was Professor Kintz's testimony.

b) Skin transfer of clostebol has been extensively discussed in the case of tennis player Jannik Sinner, whose positive test was attributed to drug transfer during a massage. **AB, p. 19.**

- This was Professor Kintz's testimony.

c) Positive cases have also been observed after cross contamination between two individuals, generally involving transfer via skin, saliva, or seminal fluid. **AB, p. 19**.

- This was Professor Kintz's testimony.

d) A cross-contamination case that involved contamination via sweat in athletes sharing a neoprene hamstring sleeve. **AB, p. 19**.

- This was Professor Kintz's testimony.

22. Professor Kintz stated that the measured concentrations of lidocaine and its metabolites in the blood of the Covered Horse "are very low when compared with data from scientific literature dealing with the pharmacokinetic publications of lidocaine in the horse. AB, p. 19.

- Agreed.

23. Despite having already conceded that "Trainer Antonucci has provided evidence of the likely source of 3-Hydroxylidocaine in Bee a Queen's sample" (**AB, p. 33**), with its Reply Brief, HIWU submitted the February 10, 2026 Witness Statement of Dr. Mary Scollay, HIWU's former Chief of Science. Dr. Scollay provided in pertinent part as follows:

- Disagreed in part. In HIWU's Written Submission, HIWU provided: "While Trainer Antonucci has provided evidence of the likely source of 3-Hydroxylidocaine in Bee a Queen's Sample, **this does not relieve her of her obligations under the ADMC Program**."[11] The remainder of the paragraph elaborated on Appellant's obligations and burdens of proof which had not been met. Further, HIWU's comment that Appellant submitted, or provided, evidence does *not* mean that "HIWU conceded" that Appellant had proven source.

a) She believes Appellant's proposed mechanism of exposure is speculative. **AB, p. 322, ¶ 7.**

- Agreed.

[11] AB p. 33 ¶ 4 (Tab 6, HIWU's Written Submission) (emphasis added).

b) Dr. Scollay cites the Bidwell study for the proposition that application of 5% lidocaine patches applied above the knee did not result in detectable concentrations of lidocaine, and that any absorption across the epidermis did not result in a measurable concentration. **AB, p. 322, ¶ 9.**

- Agreed.

c) It has been determined that for topical applications of a lidocaine preparation, plasma concentrations of lidocaine and its associated metabolites were all below 2 ng/mL. **AB, p. 322 ¶ 10.**

- Agreed.

d) Dr. Scollay asserts that Prof. Kintz "has no experience in equine medication control, equine anti-doping, equine pharmacology, or any field which would make him an appropriate individual to opine regarding the subject matter at hand," and that "his report should be disregarded." **AB, p. 322, ¶ 14, 17.**

- Agreed.

24. The RSSM submitted a second sworn statement, dated March 13, 2026, stating as follows:

- While the statement was dated March 13, 2026 without clarifying, it was not submitted to the IAP and HIWU until March 16, 2026.

a) In the days leading up to June 12, 2025, he hit a gate while riding and had some resulting pain. To ease the pain, he had appointments with his massage therapist on June 13 and June 14, 2025, during which the massage therapist applied Healthwise Lidocaine Cream to both of his legs. **AB, p. 335-336.**

- Agreed.

b) He also applied the Healthwise Lidocaine Cream to his own legs once each day during this same two-day period, and that he did not wash his hands after application. **AB, p. 336, ¶ 7.**

- Agreed.

c) He is certain there was contact between his hands and the Covered Horse's face between June 13 and June 14, 2025. **AB, p. 336 ¶ 8**.

- Agreed.

25. At hearing, Prof. Kintz testified, in pertinent part, as follows:

a) Studies indicate that lidocaine is well excreted in sweat and can be stored on the skin if not washed. **AB, p. 394:6-15 (Kintz)**.

- Agreed.

b) The low concentration in the Covered Horse's Sample (roughly 119 pg/mL), the use of lidocaine by the jockey, and the fact that a second horse who had contact with the RSSM also returned a positive finding for lidocaine is consistent with a contamination scenario, as opposed to intentional administration. **AB, p. 395:20-396:6**.

- This was Professor Kintz's testimony.

c) The concentration of lidocaine in the Covered Horse's Sample would have been much higher if a therapeutic dose of lidocaine had been administered. **AB, p. 396:8-22 (Kintz).**

- Disagreed in part. This was the testimony of Professor Kintz on direct examination; however, Professor Kintz also admitted on cross-examination that

the presence of 3-Hydroxylidocaine could have been one of "two possibilities. Tail end of an administration some days before or recent contamination."[12]

d) In response to Dr. Scollay's assertion that the Bidwell paper establishes that transfer from a patch is not possible from the skin to the blood, Prof. Kintz identified two fundamental differences which made the Bidwell study inapposite. Namely, (i) that the study used lidocaine patches, created for the specific purpose of allowing the effect of lidocaine on the skin without entering the bloodstream; and (ii) that the limit of detection used in the study was 1000 pg/mL, meaning that an amount lower than 1000 pg/mL *could not be detected*. **AB, p. 397: 12-400:18 (Kintz)**.

- This was Professor Kintz's testimony.

e) In response to Dr. Scollay's assertion that "for topical applications of lidocaine preparation, plasma concentrations of lidocaine are all well-below two nanograms," Dr. Kintz agreed, pointing out that this is consistent with the sample here, which had a concentration of 119 pg/mL – well-below two nanograms. **AB, p. 401, p. 12-23 (Kintz)**.

- This was Professor Kintz's testimony.

f) The mechanism of contamination could be via contact with the RSSM's unwashed hands after application, or through his sweat. **AB, p. 393:16-394:15 (Kintz)**.

- This was Professor Kintz's testimony.

26. HIWU elected not to call Dr. Scollay as a witness during the hearing in this matter.

- Agreed.

[12] AB p. 407 (Tab 16, Transcript) (Kintz).

27. Appellant testified that she understands that as a responsible person for the Covered Horse, she is strictly liable for the positive test. **AB, p. 436**.

- Agreed.

28. Appellant testified with respect to the precautions she takes to guard against accidental contamination, including: cameras; signage; discussions with employees about not urinating in stalls or using drugs; and use of NSDAI certified feed and supplements. **AB, p. 427:21-428:14**.

- Agreed.

29. Appellant testified that she makes an effort to stay on top of the HISA regulations, has been a huge champion of HISA since its inception, and that she goes over HISA protocol with staff. **AB, p. 433-434, 445.**

- Agreed.

30. Appellant testified that she had never asked the RSSM before June 14, 2025 if he was using any banned substances because, as an independent contractor, "he's not in my employ." **AB, p. 430:14-431:2 (Antonucci)**. She testified that the RSSM is a professional athlete, and she expected he was aware that he could not use banned substances. **AB, p. 430:14-24 (Antonucci)**. She testified that she generally speaks to him only pre-race, and that her job is to "leave them on a positive note." **AB, p. 437:14-19 (Antonucci).**

- Disagreed in part. This was the testimony of Appellant; however, Lidocaine is a Controlled Medication Substance, not a Banned Substance.

31. Appellant testified that, prior to June 14, 2025, she had never given any consideration to whether a horse could be contaminated with Lidocaine by an individual using lidocaine. **AB, p. 431:4-10 (Antonucci)**.

- Agreed.

32. Appellant testified that she considers the RSSM support staff for race days, acknowledging that, without racing support staff, the horses don't race. **AB, p. 447:1-449:10 (Antonucci).**

- Agreed.

33. The IAP Member's Decision held that Appellant did not meet her burden of proof in establishing the source of the positive test, and that she had violated Rule 3312, and imposed a Civil Sanction of 15-days ineligibility; a fine of $1,000; the automatic assignment of 2 Penalty Points pursuant to ADMC Program Rule 3328; the automatic disqualification of the Covered Horse's June 14, 2025 race results and forfeiture of all purses; and public disclosure of the violation ("Sanction"). **Decision, AB 359-363**.

- HISA disagrees to the extent that this is a mischaracterization of the IAP's Final Decision, which held that "[a]s the responsible person/trainer of record in this case, Ms. Antonucci is the absolute insurer of the condition of all of her horses. She fully explained she had never questioned her racing support staff member concerning his massage therapist's methods or drug usage."[13]

34. The Arbitrator found Appellant at fault for "never question[ing] her racing support staff member concerning his massage therapist's methods or drug usage." **Decision, AB 359.**

- HISA disagrees to the extent that it implies that this was the sole reason for the IAP's Final Decision.

[13] AB pp. 359-363 (Tab 15, Decision).

THE AUTHORITY'S REPLY TO APPELLANT'S PROPOSED CONCLUSIONS OF LAW

1. Lidocaine is a Prohibited Substance, which is a Class B Controlled Medication Substance, pursuant to Appendix 1 to Rule Series 4000: Technical Document – Prohibited Substance. Lidocaine contains a screening limit of ".2 ng/ml in serum or plasma."

- Agreed.

2. The Presence of Lidocaine, or its Metabolites, in Covered Horse Bee a Queens June 14, 2025 Sample constitutes a violation of Rule 3312. **Rule 3312**.

- Agreed.

3. Pursuant to HISA ADMC Rule 3121, which places the burden of proof upon the Covered Person alleged to have committed an anti-doping rule violation, the standard of proof – when it rests with a Covered Person – shall be by a balance of probability. **Rule 3121(b)**.

- Agreed.

4. For a Covered Person to prove "No Fault or Negligence," in order to benefit from a reduction in sanction, he or she must first establish how the prohibited substance entered the horses' system, even if not definitively under the Rules. **Rule 3324.**

- Agreed.

5. Given that the HISA ADMC was modeled after the WADA Code, analysis of what is required under the WADA Code to meet this burden is instructive. With regard to source, for a tribunal to be satisfied that a way of ingestion is demonstrated on a balance of probability "simply means in percentage terms, that it is satisfied that there is a 51% chance of it having occurred." ***ITF v. Gasquet*** **(CAS 2009/A/1926), Appellant's Authority Bundle ("AAB"), Tab 1, p. 25-28, ¶¶ 5.8-5.26;** ***WADA v. Roberts*** **(CAS 2017/A/5296), AAB, Tab 2, p. 46-62 ¶¶ 50-56**. In other

words, a Covered Person need only demonstrate that one specific way of ingestion is marginally more likely than not to have occurred.

- HISA disagrees as to the final sentence in that it suggests that the Covered Person need *only* demonstrate a possible method of ingestion; speculation as to method is *not* sufficient.

6. HIWU conceded that Trainer Antonucci had provided evidence of the likely source of 3-Hydroxylidocaine in Bee a Queen's Sample. Given HIWU's concession, Appellant was not required to present evidence of the likely source of 3-Hydroxylidocaine in Bee a Queen's Sample.

- HISA disagrees as to the first sentence, which is not a Conclusion of Law and which is misleading without the context from the full paragraph and omits a key portion of the statement: "While Trainer Antonucci has provided evidence of the likely source of 3-Hydroxylidocaine in Bee a Queen's Sample, **this does not relieve her of her obligations under the ADMC Program**."[14] HISA further disagrees as to both sentences in that HIWU's comment that Appellant submitted, or provided, evidence does *not* mean that "HIWU conceded" that Appellant had proven source. HISA also disagrees as to the second sentence in that it is a misstatement of the source requirements established in ADMC Program Rules 3324 and 3325 and the definitions in Rule 1020, which speak for themselves.

7. Nevertheless, Appellant presented further evidence regarding her search for the source and discovery that the RSSM had applied Healthwise 4% Lidocaine topical cream to his legs twice per day on June 13 and 14, 2025. Appellant's expert Dr. Pascal Kintz testified regarding

[14] AB p. 33 ¶ 4 (Tab 6, HIWU's Written Submission) (emphasis added).

the mechanisms by which the RSSM's use of the Healthwise cream could have resulted in the positive test.

- This is not a conclusion of law.

8. The IAP Member erred in finding that Appellant had not met her burden of establishing the source of the positive, given that HIWU had conceded this point in its written submissions. ***Western World Ins. Co. v. Stack Oil Inc.*, 922 F.2d 118, 122 (2d Circ. 1990); Bellefonte Re Ins. Co. v. Argonaut Ins. Co., 757 F.2d 523, 528 (2d Cir. 1985).**

- HISA disagrees in that HIWU's comment[15] that Appellant submitted, or provided, evidence does *not* mean that "HIWU conceded" that Appellant had proven source. In addition, the IAP Member did *not* err.

9. The IAP Member erred in finding that Dr. Kintz's evidence regarding the source of the positive was "purely speculative," despite the fact that (i) HIWU had conceded in its written submissions that Appellant had provided evidence of the likely source of 3-Hydroxylidocaine; (ii) no expert was called to testify on behalf of HIWU at the hearing in this matter; and (iii) that the RSSM in question had the same contact with a horse trained by a different trainer who also tested positive for Lidocaine just over one month later.

- HISA disagrees in that HIWU's comment[16] that Appellant submitted, or provided, evidence does *not* mean that "HIWU conceded" that Appellant had proven source. In addition, the IAP Member did *not* err, as the IAP Member was comfortably satisfied the Appellant violated ADMC Program Rule 3312.

[15] AB p. 33 ¶ 4 (Tab 6, HIWU's Written Submission) (emphasis added).
[16] AB p. 33 ¶ 4 (Tab 6, HIWU's Written Submission) (emphasis added).

10. Having established source, Appellant's degree of fault is assessed through the application of ADMC Program Rule 3324, as to "No Fault or Negligence," or Rule 3325, which pertains to "No Significant Fault or Negligence."

- Appellant did not establish source by a balance of probabilities; however, a reduction in Consequences is assessed through ADMC Program Rules 3324 and 3325.

11. Under the ADMC Program, "Fault" is defined as "any breach of duty or any lack of care appropriate to a particular situation," assessment of which is based on consideration of factors including "the Covered Person's experience and special considerations such as impairment, the degree of risk that should have been perceived by the Covered Person, and the level of care and investigation exercised by the Covered Person in relation to what should have been the perceived level of risk." **Rule 1020.**

- This is an incomplete recitation of the definition of Fault in ADMC Program Rule 1020; there is a significant omission of the portion of the definition that reads "[w]ith respect to supervision, factors to be taken into consideration are the degree to which the Covered Person conducted appropriate due diligence, educated, supervised, and monitored Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in any way with the care, treatment, training, or racing of his or her Covered Horses, and created and maintained systems to ensure compliance with the Protocol…" The definition of Fault speaks for itself.

12. Under the Rules, "No Fault or Negligence" is defined as a circumstance in which "[Appellant] did not know…and could not reasonably have known or suspected, even with the exercise of utmost caution, that he…committed a [violation]" **Rule 1020**

- This is an incomplete definition of "No Fault or Negligence," and the definition in ADMC Program Rule 1020 speaks for itself.

13. Under Rule 3224, the Sanction is arbitrary, capricious and contrary to the Rules because the Arbitrator erred in finding that Appellant did not establish "No Fault or Negligence" and, thus, did not disqualify the consequences, by unreasonably ignoring Appellant's credible testimony as to the precautions she takes to ensure her horses do not come into contact with prohibited substances and the distinct differences between her employees as compared to contract workers like the RSSM, and the relative contact and control she can exert over each (**Rule 1010**). The IAP Member wrongly concluded that Appellant did not establish that she bore "No Fault or Negligence" because she "never questioned her racing support staff member concerning his massage therapist's methods or drug usage." **Decision, AB, p. 359**.

- Disagreed. The IAP Member was comfortably satisfied that Appellant was in violation. There is no evidence that the IAP Member ignored any evidence. There is no evidence that the IAP Member's decision rested solely on Appellant's failure to "question[] her racing support staff member concerning his massage therapist's methods or drug usage." In addition, ADMC Program Rule 3324, not 3224, is the relevant Rule here.

14. Appellant exercised utmost caution given that she took extensive precautions to ensure that her horses did not come into contact with prohibited substances and could not have reasonably known, even in the exercise of utmost caution, that the RSSM she selected, who was

not her employee, had been using Lidocaine at the time. Even if she had known that the RSSM was using Lidocaine, she could not reasonably be expected to know that the controlled substance could enter the horse's system through contact with the jockey. ***HIWU v. VanMeter*** **(JAMS 1501000594), AAB, p. 90-93, ¶¶ 7.11-7.24;** ***HIWU v. Moquett*** **(IAP Case No. 2023-220), AAB, p. 99**.

- Appellant did not exercise utmost caution, could reasonably have known that the jockey had been using Lidocaine at the time, and could have reasonably been expected to know that the Controlled Medication Substance could enter the horse's system through contact with the Jockey.

15. No Significant Fault or Negligence is defined at Rule 1020 of the ADMC as: "the Covered Person establishing that his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the Anti-Doping Rule Violation or Controlled Medication Rule Violation in question." **Rule 1020**.

- This is an incomplete definition "No Significant Fault or Negligence," and the definition in ADMC Program Rule 1020 speaks for itself.

16. Rule 3225(c) of the ADMC provides that in a case of No Significant Fault or Negligence, and where the Controlled Medication Substance in question came from a Contaminated Product *or from another form of contamination*, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, the otherwise applicable period of Ineligibility, depending on the Covered Person's degree of Fault.

- The relevant Rule is 3325, not 3225; however, agreed as to the contents of ADMC Program Rule 3325(c).

17. Under Rule 3225, the Sanction is arbitrary and capricious and contrary to law, as the Arbitrator unreasonably and illogically considered only one fact with respect to "No Significant Fault or Negligence" analysis; and failed to rationally connect the judgment to the proper facts. **Decision, AB, p. 360**.

- The relevant "No Significant Fault or Negligence" Rule is 3325, not 3225. HISA disagrees that the IAP Member considered only one fact or failed to rationally connect the judgment to the proper facts.

18. Under *Cilic v. International Tennis Federation*, CAS 2013/A/3327, objectively and subjectively a reasonable trainer in Appellant's position would not have done more than Appellant did here. ***Cilic v. International Tennis Federation* (CAS 2013/A/3327), AAB, Tab 6, ¶¶ 69-77; *Gabriel da Silva Santos v. FINA* (CAS 2019/A/6482), AAB, Tab 7, ¶¶ 69-72.** In the "totality of the circumstances," Fault was "insignificant," and the Sanction should have been reduced to the minimum. **Rule 3225**.

- As Appellant did not establish proof of source, no reductions of Consequences in provided for by ADMC Program Rule 3324 or 3325. In any event, the degree of Fault was not insignificant, and the Sanction should not have been reduced to the minimum.

SUPPORTING LEGAL BRIEF

Appellant seeks to have the ALJ reverse the Sanctions imposed by the IAP on the basis that, in Appellant's opinion, the IAP came to the wrong legal conclusion. The existing factual record clearly supports that the IAP's finding that Appellant violated ADMC Program Rule 3312 was not arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

I. HIWU Did Not Concede that Appellant Proved Source

Appellant's Legal Brief, Proposed Findings of Fact and Proposed Conclusions of law each rely heavily on her assertion that HIWU "conceded" that Appellant had proven source, which is simply not the case. HIWU's Written Submission of November 25, 2025 states: "While Trainer Antonucci has *provided* evidence of the likely source of 3-Hydroxylidocaine in Bee a Queen's Sample, this does not relieve her of her obligations under the ADMC Program."[17] There is no concession that Appellant *proved* source. There was only a statement that Appellant "provided," (or submitted, or gave, or offered, etc.) evidence for consideration.

II. Appellant Did Not Prove Source

Appellant did not prove source to the comfortable satisfaction of the IAP Member, the relevant fact finder. Appellant appears to be under the misguided impression that because she put forth a theory of source that the IAP (and HIWU) were under the obligation to accept that theory.

Appellant did not offer testimony from the Jockey whom she alleged to be the source of the Adverse Analytical Finding. Instead, she chose to rely on his two witness statements, which directly contradict each other.[18] Appellant offered no explanation for the contradictions.

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[17] AB p. 33 ¶ 4 (Tab 6, HIWU's Written Submission) (emphasis added).
[18] AB p. 12-13 (Tab 4, Witness Statement of Jose Morelos dated November 11, 2025); AB, pp. 335-336 (Tab 10, Second Witness Statement of Jose Morelos). *See In the Matter of Craig Lewis*, FTC Docket No. 9447 (June 10, 2026) at p. 21 (criticizing Covered Person who had the burden of proof for having a "central witness" who did not testify at the merits hearing and therefore avoided cross-examination).

Further, the IAP Member found the testimony of Professor Kintz, Appellant's expert to be "purely speculative." The IAP Member specifically noted that Professor Kintz had "no experience with thoroughbred race horses [sic] or lidocaine cream exposure from humans to horses."[19]

III. Appellant Did Not Prove that She Was Entitled to a Reduction in Consequences

Appellant failed to establish to the comfortable satisfaction of the IAP Member that she was entitled to a reduction in Consequences under either ADMC Program Rule 3324 or 3325. The IAP Member is not required to lay out every fact and argument considered within their written ruling in order for the Consequences imposed to be rationally connected to the evidence. The IAP Member did, however, note that Appellant is "the absolute insurer of the condition of all of her horses;"[20] that Appellant "had never questioned her racing support staff member concerning his massage therapist's methods or drug usage;"[21] and that the testimony of Professor Kintz was "purely speculative."[22] Appellant attempts to substitute her judgment for that of the IAP Member. Appellant cannot point to a single piece of evidence which would reveal a clear error in judgment by the IAP Member or support her proposition that the Final Decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

IV. Conclusion

The Final Decision of the IAP properly applied the ADMC Program Rules and is rationally connected to the evidence. The Final Decision should be affirmed, and the Consequences imposed upheld.

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[19] AB p. 359 (Tab 15, Final Decision).
[20] AB p. 359 (Tab 15, Final Decision); s*ee also* ADMC Program Rule 3040(b)(6).
[21] AB p. 359 (Tab 15, Final Decision).
[22] AB p. 359 (Tab 15, Final Decision); *see also In the Matter of Philip Serpe,* FTC Docket No. 9441 (Sept. 12, 2025), at p. 35 (wherein the ALJ opined, "speculation is not proof.").

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

/s/*Bryan H. Beauman*

BRYAN BEAUMAN
REBECCA PRICE
333 W. Vine Street, Suite 1500
Lexington, Kentucky 40507
Telephone: (859) 255-8581
bbeauman@sturgillturner.com
rprice@sturgillturner.com
HISA ENFORCEMENT COUNSEL

MICHELLE C. PUJALS
CHRISTY L. HEATH
4801 Main Street, Suite 350
Kansas City, MO 64112
Telephone: (816) 814-4713
mpujals@hiwu.org
cheath@hiwu.org
HORSERACING INTEGRITY & WELFARE UNIT, A DIVISION OF DRUG FREE SPORT LLC