UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
FTC DOCKET NO. 9447

COMMISSIONERS: Andrew N. Ferguson, Chair
Mark R. Meador

IN THE MATTER OF:

CRAIG A. LEWIS **APPELLANT**

THE AUTHORITY'S RESPONSE TO APPELLANT'S APPLICATION FOR REVIEW

Comes now the Horseracing Integrity and Safety Authority, Inc. ("**HISA**") pursuant to 16 CFR §1.147 and submits the following Response to Appellant's Application for Review, dated June 25, 2026.

CERTIFICATE OF SERVICE

Pursuant to 16 CFR §1.146(a) and 16 CFR §4.4(b), a copy of this Response to Appellant's Application for Review is being served on July 2, 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 Beauman*
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The Horseracing Integrity and Safety Authority (the "**Authority**" or "**HISA**"), by counsel, requests the Federal Trade Commission (the "**Commission**") deny this Appellant's Application for Review ("**Application**") filed June 25, 2026. 16 CFR §1.147(b)(4)(ii) provides the Commission has the "sole discretion" to consider Appellant's Application, provided Appellant makes a "reasonable showing" that a "prejudicial error was committed in the conduct of the proceeding before the [ALJ];" or the decision involved erroneous application of the Anti-Doping Medication Control ("**ADMC**") Program Rules (the "**Rules**") or was an "exercise of discretion or a decision of law or policy that warrants review." None of the alleged errors raised by Appellant warrant review by the Commission.

In his Application, Appellant challenges the constitutionality of the Rules, the content of the Rules, and the determinations of law and factual findings made by Administrative Law Judge Jay L. Himes (the "**ALJ**"). As it relates to this appeal and under 16 CFR §1.147(b)(4)(ii), only the ALJ's determinations of law and factual findings are reviewable.

First, Appellant argues the ALJ committed error by not allowing oral argument or an evidentiary hearing. Yet, the ALJ explained in his Order on Application for Review and Stay, dated April 8, 2026, his rationale for the determination that an evidentiary hearing, as well as oral argument, was not necessary in Appellant's case:

> "Mr. Lewis's review application does not include any of the information required by Rule 1.146(a)(1), nor any other specifics forming the basis for his request for an evidentiary hearing. He does not assert, for example, any allegedly erroneous exclusion of receipt of evidence, or other failure prejudicing his opportunity to adduce relevant facts or otherwise liming his defense, at the arbitration hearing. He similarly has not set forth any additional evidence that he would proffer at an evidentiary hearing.
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> . . .
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> Similarly, Mr. Lewis's stated desire 'to contest the . . . [IAP member's] interpretation of the law' affords no basis for directing an evidentiary hearing. The merits briefing, further provided for below, will enable Mr.

> Lewis to argue appropriately raised points of law based on the record from the IAP proceeding.
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> Rule 1.146(a)(1) authorizes an ALJ, after receiving the Authority's response to an application for review, to determine 'whether an evidentiary hearing . . . is either unnecessary or necessary to supplement or to contest facts in the record . . . .' Accordingly, Mr. Lewis' request for an evidentiary hearing is DENIED. I will decide this proceeding on the arbitration record and the parties' briefs on this review.

Second, Appellant complains that the ALJ allowed the Authority "to offer a hearsay within hearsay explanation" so the ALJ could correct the blood Sample number set forth within the IAP decision. Yet, Appellant fails to recognize both the ALJ's authority to clarify matters on the record, as well as the evidentiary standard applicable to proceedings before the ALJ. Pursuant to 16 CFR §1.146(c)(1)(i)(B), an ALJ "has the duty and is granted the necessary powers to . . . Issu[e] orders requiring answers to questions." 16 CFR §1.146(c)(6)(ii) states "[o]nly relevant, material and reliable evidence will be admitted . . . Evidence that constitutes hearsay may be admitted if it is relevant, material, and bears satisfactory indica of reliability." The ALJ determines the "final factual record." 16 CFR §1.146(c)(5)(iv). Thus, it was within the ALJ's duty and power to order an explanation involving the discrepancy of the blood Sample number within the Authority's submissions; it was further within the ALJ's authority to determine the correct blood Sample number based upon the responses the ALJ received from both the Authority and Appellant and the factual record below, which the ALJ did determine.

Third, Appellant pointed to alleged "mistakes by both laboratories," accused the ALJ of ignoring those alleged "glaring mistake[s]" and declared the ALJ "dead wrong" in his findings. However, the ALJ pointed out that Appellant failed to raise any objections to information contained within the Laboratory documents offered by the Horseracing Integrity & Welfare Unit ("**HIWU**") during the Internal Adjudication Panel ("**IAP**") proceedings. Appellant was therefore precluded from raising those objections on appeal under FTC Rule §1.146(a)(1). The ALJ further

explained that, even if such mistakes constituted "departures" under Rule 3122(c), the Rule further requires Appellant demonstrate how the departure "could reasonably have caused" the presence of the Controlled Medication Substance in the Sample of Appellant's Covered Horse, which Appellant had clearly not shown. The ALJ determined none of Appellant's objections provided "a basis for discrediting HIWU's laboratory evidence."

Fourth, Appellant argued that the ALJ should have found in his favor regarding a request for the DNA Sample analysis of his Covered Horse. The ALJ directly answered Appellant's complaint in his decision, explaining that Appellant's "speculation that the sample tested did not belong to [the Covered Horse] is insufficient to satisfy his burden to show grounds for DNA testing." The ALJ clarified that no Rule required DNA testing and further found Appellant had not offered any case law to support his contention that DNA testing should have been ordered by the IAP Member. The ALJ determined "Mr. Lewis ha[d] shown no basis for ordering DNA testing."

Fifth, Appellant took issue with the ALJ's determination that Appellant failed to demonstrate he was entitled to a finding of No Fault or Negligence. Appellant did not explain *how* the ALJ erred in his decision; he merely declared he "unequivocally demonstrated" entitlement to the finding. In the ALJ's decision, however, the ALJ outlined four discrete reasons Appellant was not entitled to such a finding—virtually all based in the Rules precluding a finding of No Fault when the Controlled Medication Substance is administered by the Veterinarian of the Covered Horse. As a result, the ALJ determined Appellant failed to exercise "utmost caution" or demonstrate how his case was one of "exceptional circumstances."

For these reasons, Appellant's Application fails to meet the applicable standard for review set forth in 16 CFR §1.1.27(b)(4)(ii). Appellant's Application should be denied.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 2nd day of July, 2026.

/s/*Bryan H. Beauman*

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