

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 SUPPLEMENTAL RESPONSE TO DR. SCOTT'S OBJECTION
AND MOTION TO STRIKE IN LIGHT OF THE COMMISSION'S DECISION IN
SERPE

Comes now the Horseracing Integrity and Safety Authority, Inc. (“HISA” or the “Authority”) pursuant to the Administrative Law Judge’s Order dated July 1, 2026, and submits the following Supplemental Response to Dr. Scott’s Objection and Motion to Strike in light of the Commission’s Decision in *In the Matter of Philip Serpe*.

CERTIFICATE OF SERVICE

Pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), a copy of the Authority's Supplemental Response to Dr. Scott's Objection and Motion to Strike in light of the Commission's Decision in *In the Matter of Philip Serpe* is being served July 9, 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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The Authority's Supplemental Response

1. In its original response, the Authority argued that, under the *de novo* review provided for in the Horseracing Integrity and Safety Act, as amended (the “Act”), and the accompanying regulatory framework, the ALJ could increase the sanctions imposed by an arbitrator.

2. On June 30, 2026, the Commission issued its decision in *In the Matter of Philip Serpe*.¹ Although *Serpe* raised different issues under different circumstances, two aspects of the *Serpe* decision are relevant to Dr. Scott's motion.

3. First, the Commission decided that the Administrative Law Judge “must abide by the ‘longstanding rule’ against ‘alter[ing] a judgment to benefit a nonappealing party.’”² The Commission reaffirmed that the Authority has no appeal rights under the Act. The ALJ therefore “must typically abstain from modifying . . . sanctions in the Authority's favor.”³

4. In short, *Serpe* reflects a narrower view of the ALJ's authority when an aggrieved person seeks review of a final civil sanction than the position the Authority advanced in its original response.

5. Second, the Commission affirmed that the ALJ may still set aside sanctions and remand a matter “in whole or in part” for further proceedings, including where the ALJ “think[s] the imposed sanctions are too lenient.”⁴

6. Given the extensive briefing that has already occurred in this matter, the Authority believes that it is appropriate for the ALJ to rule on Dr. Scott's application for review, “mak[ing]

¹ *In the Matter of Philip Serpe*, FTC Docket Number 9441 (June 30, 2026).

² *Id.* at 15 (quoting *Greenlaw v. United States*, 554 U.S. 237, 244 (2008)).

³ *Id.*

⁴ *Id.* at 14.

any finding or conclusion that, in the judgment of the administrative law judge, is proper and based on the record.”⁵

7. If the ALJ finds that one or both Anti-Doping Rule Violations were proven, the Authority believes it would be appropriate for the ALJ to remand this case for sanctioning consistent with the ALJ’s findings.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 9th Day of July, 2026.

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⁵ 15 U.S.C. § 3058(b)(3)(A)(iii).