

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9453**

ADMINISTRATIVE LAW JUDGE:

DANIA L. AYOUBI

IN THE MATTER OF:

ERIN THOMPSON

APPELLANT

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

CERTIFICATE OF SERVICE

Pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), a copy of the Authority's Response is being served on July 20, 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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The Horseracing Integrity and Safety Authority, Inc. (the “**Authority**”) files this Response to Appellant’s Application for Review of the Final Decision issued June 30, 2026, by Arbitral Body member Hon. Hugh L. Fraser (the “**Arbitrator**”) under the Authority’s Anti-Doping and Medication Control (“**ADMC**”) Program (the “**Decision**”). As an initial matter, the requirements of the ADMC Program Rules, including Rule 7260, were appropriately followed by both the Horseracing Integrity and Welfare Unit (“**HIWU**”) and the Arbitrator. Thus, the Administrative Law Judge (“**ALJ**”) should uphold the Arbitrator’s Decision.

In her Application for Review, the Appellant requests a review of the record to determine whether the Arbitrator misapplied the law to the facts of her case, which includes a question about whether the sanction was excessive; and to further determine whether the Arbitrator assessed the evidence properly. To the extent it can be construed that an evidentiary hearing was requested, the Authority opposes an evidentiary hearing, as it is unnecessary to supplement or contest the record. There are no disputes of material facts. Though the Authority does not believe the Appellant has satisfied the requirements set forth under 15 U.S.C. §3058(b)(3) to establish a review is warranted, if Appellant’s request for review is granted, this appeal should be limited to briefing and/or oral argument, as Appellant has failed to provide any supplemental evidence.¹

As to the legal issues raised, the Decision and the Consequences imposed therein are not arbitrary, capricious, an abuse of discretion, prejudicial, the result of a conflict of interest, or otherwise not in accordance with the law. When a violation of ADMC Program Rule 3212, *Presence of a Banned Substance*, occurs, and before a finding of No Fault or Negligence or No Significant Fault or Negligence² can be applied to reduce the Consequences assessed against a Covered Person, the Covered Person is required to prove the source of the Banned Substance found present in the body of her Covered Horse.³

¹ 16 C.F.R. §1.146(c)(2)-(3).

² ADMC Program Rules 3224 and 3225.

³ HISA Rule 1020, *Definitions*, No Fault or Negligence; No Significant Fault or Negligence (wherein both definitions provide: “For any violation of Rule 3212 or 3312, the Covered Person must also establish how the Prohibited Substance entered the Covered Horse’s system in order to establish No Fault or Negligence [and No Significant Fault or Negligence]”).

Pursuant to ADMC Program Rules, an ADMC Program Rule 3212 Violation includes, among other Consequences, a default period of Ineligibility for the Covered Person of 2 years and a fine of up to \$25,000. Though ADMC Program Rule 3223(b) permits fines in a discretionary amount, fines should “‘follow’—that is, ‘be commensurate with’—the fault.”⁴

In Appellant’s Application for Review, Appellant acknowledges she was unable “to identify the precise source of Clenbuterol” and that she did not “conclusively establish the precise source of exposure.” Based upon the Appellant’s inability to identify the source of the Banned Substance, it necessarily followed that any reduction of Consequences based upon a finding of No Fault or No Significant Fault under ADMC Program Rules 3224 or 3225 was precluded and therefore inapplicable. Thus, the Consequences imposed by the Arbitrator under Rule 3220 *et. seq.*, which include, among other Consequences, a default period of Ineligibility of 2 years and a fine of \$25,000, were not an abuse of discretion.

The appropriate legal standards were applied in Appellant’s case. Appellant has not identified *any* plain error or unjustified exercise of discretion by the Arbitrator such that the Final Decision is “clearly against the logic and effect of the facts as [were] found.”⁵ Therefore, the Final Decision should be upheld, and the review should be denied.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 20th day of July 2026.

/s/Bryan H. Beauman

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⁴ *In the Matter of Eusebio Juarez-Ruffino*, Decision of the Administrative Law Judge on Petition for Review, Docket No. 9444, p. 50 (Apr. 28, 2026) (quoting *In the Matter of Overly*, Administrative Law Judge Decision on Review, Docket No. 9449, 92-93 (Jan. 27, 2026); *In the Matter of Poole*, JAMS Case No. 1501000576, ¶¶ 7.24-.25, aff’d, 2023 WL 8435860, at *5.).

⁵ *In the Matter of Dr. Scott Shell DVM*, Administrative Law Judge Decision on Application for Review, Docket No. 9439, p. 13-14 (Mar. 6, 2025) (citations omitted).

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