

Conference

July 1, 2026

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

-----X
In the Matter of :
VANCE CHILDERS, : Docket No. 9452
Appellant. :
-----X

CONFERENCE

DATE: Wednesday, July 1, 2026
TIME: 3:00 p.m. EDT
BEFORE: Honorable Jay L. Himes
LOCATION: Remote Proceeding
Washington, D.C. 20005
(by videoconference)

Job No.: 8298496
Pages: 1 - 16
Reported by: Cappy Hallock, RPR, CRR

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1 APPEARANCES:

2 ON BEHALF OF APPELLANT VANCE CHILDERS:

3 LLOYD CUETO, ESQUIRE

4 Law Office of Lloyd M. Cueto, P.C.

5 7110 West Main Street

6 Belleville, Illinois 62223

7 618-277-1554 (P)

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9 ON BEHALF OF HORSERACING INTEGRITY & SAFETY
10 AUTHORITY:

11 ALLISON FARRELL, ESQUIRE

12 Horseracing Integrity & Welfare Unit

13 4801 Main Street, Suite 350

14 Kansas City, Missouri 64112

15 afarrell@hiwu.org

16 ALSO PRESENT:

17 Susel Koepke

18 Dana Gross

19 LaShaon Asberry-Beach

20 Michael Alonzo

21 Reporter: Cappy Hallock, RPR, CRR

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1 P R O C E E D I N G S

2 - - - - -

3 THE COURT: Let's go on the record.

4 As you, of course, know, I am Judge
5 Himes assigned to this case, The Matter of
6 Childers, Docket Number 9452. I called this
7 conference to discuss briefly the forthcoming
8 papers on the merits of the three charges against
9 Mr. Childers that you will be submitting.

10 Let me just begin typically by taking
11 the appearances of the parties. Please identify
12 yourself and anyone in the virtual hearing room
13 with you. I will start with the Appellant,
14 Mr. Childers.

15 Your appearance, sir?

16 MR. CUETO: Lloyd Cueto on behalf of
17 the Appellant.

18 THE COURT: And on behalf of the
19 Authority?

20 MS. FARRELL: Allison Farrell on
21 behalf of the Authority.

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1 THE COURT: Again, you are HIWU but
2 you are here for the Authority, right?

3 MS. FARRELL: Yes, Your Honor.

4 THE COURT: Got it.

5 The conference, of course, is being
6 conducted, of course, via video.

7 MS. FARRELL: Is it just me or is he
8 frozen?

9 THE COURT: Okay. It looks like
10 everybody is still here. I started to say there
11 is no need for the public but the proceeding is
12 not confidential. If any member of the public in
13 some fashion has come hold of the link, that's
14 fine. They just must disable their video and use
15 their audio. I don't see anybody.

16 The hearing is being transcribed by a
17 court reporter, and we will file the transcript as
18 part of the FTC's public docket in the case. Will
19 the court reporter please just state her name for
20 the record.

21 THE REPORTER: My name is Cappy

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1 Hallock.

2 THE COURT: Thank you.

3 And we also have FTC staff from the
4 Office of Administrative Law Judges, and that
5 includes our summer intern so I think that is the
6 cast of characters that are currently shown in the
7 video.

8 So quickly, on the logistics and then
9 the reason for the conference itself, we did not
10 re-send the videoconference instructions from a
11 couple of weeks ago but I'm confident that you
12 have them in mind. Only persons who are
13 authorized to speak during conference should do so
14 via the Teams link. If you are counsel speaking,
15 have your video on at all times and your audio on
16 only when you are speaking. And I don't think it
17 will be complicated, but before speaking it's
18 sometimes helpful to just reidentify yourself for
19 the court reporter.

20 Okay, now, the facts we all know, so
21 I'm going to be very brief just for the context.

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1 HIWU charged Mr. Childers, a trainer, with three
2 alleged antidoping rule violations. Two involve
3 presence of testosterone in horses named Tigger
4 Attack and Childersattack, both trained by
5 Mr. Childers. The third charge is possession of a
6 banned substance which I have seen referred to as
7 kava kava, which was found in Mr. Childers' tack
8 room. After the arbitration hearing the
9 Arbitrator found HIWU had proven all three charges
10 and Mr. Childers has brought this review
11 proceeding.

12 So as you, of course, know, this case
13 comes to me after I had undertaken a review and
14 decided Dr. McCrosky's case, which is related and
15 included antidoping rule violations based on many
16 of the same facts underlying the two testosterone
17 presence charges here.

18 Now, of course I will review the
19 evidence presented here involving Mr. Childers,
20 and while I don't have yet the arbitration
21 transcript I have reviewed enough of what I do

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1 have including a good chunk of the video to get
2 some sense of what probably is going to matter
3 most on this review. Before I speak to that I do
4 want to say that you can brief the merits any way
5 you wish. However, you have word limits so I
6 thought you might benefit from hearing my
7 preliminary thoughts on what I find of interest at
8 this point.

9 First of all, I have a feeling that
10 Mr. Childers has headwinds to overcome if he
11 argues against any liability for any of the three
12 antidoping rule violations. If I'm right about
13 that, then the focus here is more likely to be on
14 the defenses of no fault or negligence, and
15 perhaps even more so on no significant fault or
16 negligence. That's, of course, if no fault does
17 not prevail and we have to rely on no significant
18 fault or negligence analysis.

19 No fault is, as I'm sure you both
20 probably know, famously difficult to prove. I
21 have not yet seen a case that comes close, so I

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1 give you that observation at this point. No
2 significant fault or negligence, as is typical,
3 holds out more potential, and of course the
4 Arbitrator did undertake analyses of each of the
5 three antidoping rule violations under the no
6 fault or no significant fault analysis here.

7 Now, I know the two sides have now
8 agreed that the two presence antidoping rule
9 violations are resolved at least as far as source
10 is concerned. That's no longer an issue. You
11 both agree that Dr. McCrosky is the source. He
12 injected the two horses, and I know there is a
13 joint stipulation to that effect which you filed I
14 think yesterday or the day before, so that much of
15 an issue is taken out of the no significant fault
16 or analysis, no significant fault or negligence
17 analysis as well as, frankly, the no fault or
18 negligence analysis, and it's not something that
19 you need to concern yourself with any longer.

20 The Authority has itself said, if I
21 understand correctly, that it is satisfied with

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1 the ten months of ineligibility that the
2 Arbitrator imposed for Tigger Attack and would be
3 fine if that also were imposed for the Childers
4 antidoping rule violation as well.

5 Am I right in saying that,
6 Ms. Farrell?

7 You may be muted.

8 MS. FARRELL: Yes, Your Honor. Sorry.

9 THE COURT: Okay, we got that down.

10 Mr. Childers apparently wants to argue
11 for less than ten months, and that certainly is
12 his right, but at least I know the upper ceiling
13 for the Authority at this point.

14 Now, also on the possession violation
15 where the Arbitrator awarded twelve months I see
16 that Mr. Childers also wants to argue that
17 ineligibility period down, and again that is his
18 right, and I know that he has in mind the recent
19 Greiner decision, and I will concur that certainly
20 that is worthy of argument and consideration.

21 I'm sorry, does someone want to say

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1 something? No? Okay.

2 Now, another issue that I think bears
3 attention is the award of consecutive
4 ineligibility which here, if I did my math,
5 translates into 46 months during which
6 Mr. Childers would be suspended. That's a total
7 based on the three ineligibility periods that the
8 Arbitrator came up with.

9 The Authority's concession on the
10 Childersattack source issue and its willingness to
11 accept ten months would, if nothing else, change,
12 reduce that 46 months to 32 months. Again, I'm
13 assuming all consecutive ineligibility periods.

14 Now, I think that particularly the
15 Authority will have to deal with my McCrosky
16 ruling on consecutive ineligibility in ADMC
17 antidoping rule violations. You both will
18 appreciate I concluded that consecutive liability
19 is not the default, at least not as I saw it at
20 the time of McCrosky. The Authority, of course,
21 is free to argue I was wrong, and urge me to

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1 revisit that ruling. If you do go that route some
2 authority would help. Simply disagreeing with my
3 analysis maybe could prevail but it's always nice
4 if you have some law or reinterpretation of some
5 of the rules which will give me reason to re-think
6 and not simply mere disagreement. Otherwise, what
7 I said in McCrosky will likely apply here.

8 And if there is to be consecutive
9 ineligibility I need to be convinced that these
10 two presence ADRVs, antidoping rule violation, and
11 the one possession antidoping rule violations, can
12 run consecutively under some portion of the rules
13 or some other authority that you think I ought to
14 be applying.

15 Now, I hope that gives you some
16 guidance. One other point -- actually, there is
17 going to be two more. Ms. Farrell no doubt knows
18 but Mr. Cueto may not, that yesterday the
19 Commission issued its decision in the Serpe case.
20 That decision has some things to say about the
21 nature of ALJ review authority and sanctions. You

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1 should, if you have not already, read that
2 decision. I can't predict whether either of you
3 will find anything in there worth raising. I just
4 call the decision to your attention since it is
5 the first time that the Commission itself has
6 spoken on ALJ authority and sanctions.

7 Mr. Cueto, have you seen that
8 decision yet?

9 MR. CUETO: I have not, Your Honor. I
10 appreciate you bringing it to my attention.

11 THE COURT: Well, maybe I will be even
12 nicer.

13 Ms. Farrell, maybe you could e-mail
14 him a copy? Surely you have seen it?

15 MS. FARRELL: Yes, Your Honor.

16 THE COURT: Okay, she will send you a
17 copy. You won't have to dig it out of the FTC's
18 website someplace. It may not even be up there
19 yet, but you will get it and you will have it in
20 time for the briefing.

21 Now, I get to the one final point, and

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1 this one maybe you could take more seriously than
2 the others. You can spend your word limit
3 wherever you want, but if there is one thing I'm
4 usually able to get without very much help, it's
5 the proceedings that took place before the
6 Arbitrator. And I know I have seen countless
7 sports law decisions where for some reason or
8 another the CAS panel thinks they are really
9 helping by going down the list of proceedings,
10 usually date by date, and I will agree that you
11 folks are not nearly that bad but this is a place
12 where if you want to save words it's a good place
13 to save words.

14 Now, maybe something unusual happened
15 in the course of the proceedings before the
16 Arbitrator and you may want to make sure that I
17 pick up on that, but failing that, as I suggest,
18 this is not the best place to be writing when you
19 have a limited number of words.

20 Any questions that either of you have?

21 MS. FARRELL: No, Your Honor. Thank

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1 you.

2 MR. CUETO: No, Your Honor. This was
3 very informative. Thank you.

4 THE COURT: Ms. Farrell, one thing. I
5 do still need the arbitration transcript.

6 MS. FARRELL: Yes. We will file that.

7 THE COURT: Is it ready yet? Do you
8 know?

9 MS. FARRELL: Yes, I think it's ready.
10 Mr. Cueto, have you signed off on it?

11 MR. CUETO: I didn't have any issue
12 with the evidence.

13 MS. FARRELL: Okay, it has been
14 prepared and we will submit it.

15 THE COURT: I mean I don't need it
16 tomorrow or the next day or something, but I did
17 notice that it was absent so I wanted to bring it
18 to your attention.

19 MS. FARRELL: Yes.

20 THE COURT: Okay. Anything more that
21 anybody has?

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1 MR. CUETO: No, Your Honor.

2 THE COURT: I thank you very much for
3 making yourself available. Have a good 4th of
4 July holiday.

5 MR. CUETO: Same to you, sir. Thank
6 you.

7 (Thereupon, the hearing was concluded
8 at 3:17 p.m.)

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1 UNITED STATES OF AMERICA)

2 STATE OF MARYLAND)

3

4 I, CAPPY HALLOCK, the reporter before
5 whom the foregoing proceedings were taken, do
6 hereby certify that the foregoing transcript is a
7 true record of the proceedings.

8 I further certify that I am neither
9 counsel for, related to, nor employed by any of
10 the parties to the action in which these
11 proceedings were taken; and further that I am not
12 a relative or employee of any attorney or counsel
13 employed by the parties hereto, or financially or
14 otherwise interested in the outcome of this
15 action.

16

17

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19



20

Cappy Hallock, RPR, CRR

21

My Commission expires January 19, 2029

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[& - cappy]

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