

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9452**

ADMINISTRATIVE LAW JUDGE:

JAY L. HIMES

IN THE MATTER OF:

VANCE CHILDERS

APPELLANT

**THE AUTHORITY’S REPLY TO APPELLANT’S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND REPLY LEGAL BRIEF**

Comes now the Horseracing Integrity and Safety Authority, Inc. (“**HISA**” or the “**Authority**”) pursuant to the Administrative Law Judge’s Order Setting Revised Briefing Schedule, dated July 7, 2026 (the “**Briefing Order**”), and submits the following Reply Findings of Fact, Conclusions of Law, and Reply Legal Brief.

CERTIFICATE OF SERVICE

Pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), a copy of this Authority's Reply Findings of Fact, Conclusions of Law and Reply Legal Brief is being served on August 10, 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.

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REPLY TO APPELLANT'S PROPOSED FINDINGS OF FACT

I. THE PARTIES AND THE PROCEEDINGS BELOW

1. Appellant Vance Childers (“Trainer Childers”) is a trainer of Thoroughbred racehorses at Fairmount Park Racetrack in Collinsville, Illinois, and is a Covered Person under ADMC Program Rule 3020 and a Responsible Person under Rule 3030. (AB 214, ¶ 1) (Uncontested Stipulation of Fact).

- Not disputed.

2. Trainer Childers is a young, inexperienced trainer. He took his barn, including its tack room, from his grandfather in 2020, upon his grandfather’s death. (AB 2411, ¶¶ 2.6-2.7) (Final Decision); (AB 2430, ¶ 7.40) (Final Decision) (“young, inexperienced trainer”).

- Not disputed.

3. Childersattack and Tigger Attack are Covered Horses trained by Trainer Childers and medically cared for by Dr. Donald McCrosky. (AB 2150, ¶ 10) (Uncontested Stipulation of Fact). Both horses are owned by Lois McCrosky, Dr. McCrosky’s wife. (AB 2160-2161) (McCrosky Amended Final Decision); (AB 2431, ¶ 7.41) (Final Decision).

- Not disputed.

4. The arbitration hearing was held by videoconference on January 28, 2026, before Arbitrator Bernard Taylor Sr. The Arbitrator heard testimony from HIWU Investigator Matthew Meyer, Dr. Mary Scollay, and Trainer Childers, and admitted the witness statements of Petra Hartmann and Dr. Mary Robinson without cross-examination. (AB 2413, ¶¶ 3.23 - 3.24) (Final Decision).

- No response.

5. On January 23, 2026, the parties submitted an Uncontested Stipulation of Fact. (AB 2147-2152).

- No response.

6. On April 28, 2026, the Arbitrator issued a Final Decision finding one Rule 3214(a) Possession violation and two Rule 3212 Presence violations, and imposing a total period of Ineligibility of three years and ten months, served consecutively, and a \$30,000 fine. (AB 2406-2435); (AB 2434, ¶ 8.1) (Final Decision).

- No response.

7. On May 6, 2026, the Authority submitted its Civil Sanction Notice under 16 C.F.R. § 1.145, with Trainer Childers' period of Ineligibility commencing May 7, 2026. The Notice inadvertently switched the names of the two Covered Horses in paragraphs 2 and 3, as the Authority has acknowledged: paragraph 2 (two years) should refer to Childersattack and paragraph 3 (ten months) to Tigger Attack. HISA Civil Sanction Notice (May 6, 2026); Authority's Review Resp. at 1 n.4.

- Not disputed.

8. Trainer Childers timely filed his Notice of Appeal and Application for Review, which stated three grounds for review, the third of which challenged the consecutive structure of the periods of Ineligibility imposed by the Final Decision.

- No response.

9. On June 30, 2026, the parties filed a Joint Stipulation on Source of Testosterone in Covered Horses, stipulating that "the source of Testosterone in Appellant's Covered Horses, Childersattack and Tigger Attack ... was a Testosterone injection given to each Covered Horse by Dr. Donald McCrosky, who was the Covered Horses' Veterinarian at the relevant time." Joint Stipulation on Source of Testosterone in Covered Horses (June 30, 2026).

- Not disputed.

II. DR. McCROSKY'S ADMINISTRATION, MISINFORMATION, AND CONCEALMENT

10. Dr. McCrosky was an extremely experienced veterinarian and one of only two veterinarians at Fairmount Park. He had provided veterinary services to Trainer Childers' grandfather for many years without issue. (AB 2430, ¶ 7.40) (Final Decision).

- Not disputed; however, Dr. McCrosky never provided veterinary services to Appellant's grandfather after the ADMC Program entered into effect in May 2023 because his grandfather passed away in July of 2020.¹

¹ HISA Updated Appeal Book ("AB"), 2698:19-2699:3 (Childers).

11. In an April 22, 2025 interview with HIWU Investigators, Dr. McCrosky admitted administering Testosterone to Tigger Attack after being advised by a groom that the horse was not eating well. (AB 2152, ¶ 26) (Uncontested Stipulation of Fact).

- Not disputed.

12. Dr. McCrosky testified under oath that he administered Testosterone to Tigger Attack five days before the horse's October 29, 2024 race, and that "Trainer Childers was not involved in and did not know anything about the administration of Testosterone to Tigger Attack." (AB 2152, ¶ 27) (Uncontested Stipulation of Fact).

- Not disputed.

13. When Trainer Childers made inquiries as to the medications Dr. McCrosky was administering to his Covered Horses, Dr. McCrosky told him he was providing the horses "vitamins," "buildup," or other vaguely described permissible substances. The Final Decision found that "Dr. McCrosky intentionally misrepresented and concealed the substances he was administering to Covered Horses, telling Trainer Childers he was administering permissible substances when in fact he was administering prohibited substances." (AB 2430, ¶¶ 7.38-7.39) (Final Decision); (AB 2431, ¶ 7.41) (Final Decision).

- Not disputed; however, Appellant admitted under oath that he did not want to challenge Dr. McCrosky's vague responses to Appellant's questions concerning medications being given to his Covered Horses, even though his "hide your head in the sand behavior" could be risky to horse welfare.²

14. On November 18, 2024, after HIWU notified Trainer Childers of the Atypical Finding for Childersattack, Dr. McCrosky sent HIWU a handwritten note claiming that he had performed a castration on Childersattack in March 2022 that left one Testosterone-producing undescended testicle intact. (AB 2150, ¶ 15) (Uncontested Stipulation of Fact).

- Not disputed.

15. The Jockey Club's InCompass database shows that Childersattack was gelded (fully castrated) on November 23, 2020 – some sixteen months before the partial castration Dr. McCrosky claimed to have performed – and contains no indication that the horse had a remaining testicle. (AB 2411, ¶ 2.4) (Final Decision); (AB 2177) (McCrosky Amended Final Decision).

² AB, 2691:22-2694:4 (Childers).

- Not disputed.

16. Dr. McCrosky did not respond to HIWU's December 10, 2024 Demand for Business Records seeking Childersattack's medical records, or to HIWU's request that Childersattack be made available for examination. (AB 2150-2151, ¶ 16) (Uncontested Stipulation of Fact).

- Not disputed.

17. On April 2, 2025, Dr. McCrosky sent HIWU a second handwritten note stating that he had removed the claimed remaining testicle from Childersattack on December 2, 2024 – after HIWU's notice of the Atypical Finding. (AB 2151, ¶ 18) (Uncontested Stipulation of Fact).

- Not disputed.

18. In *HIWU v. McCrosky*, Arbitrator Fraser found that Dr. McCrosky “knowingly submitted false documentation in order to explain away a possible violation of the Rules”; that once he became aware of the Atypical Finding, he “took matters into his own hands and performed the castration on Childersattack in order to spoliage the evidence”; and that he “deliberately attempted to mislead the authorities regarding the status of Childersattack.” (AB 2203, ¶¶ 8.27, 8.30-8.31) (McCrosky Amended Final Decision).

- No response.

19. Arbitrator Fraser found Dr. McCrosky committed nine ADRVs – including two Tampering violations arising from representations regarding Childersattack castration that were found to be false and a Trafficking violation for selling loaded syringes containing Banned Substances to another trainer at Fairmount Park – and imposed a total period of ineligibility of twenty-four years and fines totaling \$300,000. (AB 2203-2204, ¶¶ 8.31-8.37); (AB 2207, ¶ 8.51) (McCrosky Amended Final Decision).

- Only one Tampering ADRV confirmed by Arbitrator Fraser concerned Childersattack; the other Tampering ADRV concerned Dr. McCrosky's ill-advised decision to take back Banned Substances that had been seized by HIWU during a search.³

20. On review of the McCrosky Final Decision, the ALJ concluded that “Childersattack received a testosterone injection before racing at Fairmount Park in October 2024, which resulted in the positive testosterone result,” and that the “probable inference” was that Dr. McCrosky tried

³ AB, p. 2202, paras 8.23-8.25 (*HIWU v. Dr. Donald McCrosky*, JAMS Case 1501001138).

to cover this up. *In the Matter of Dr. Donald McCrosky*, FTC Docket No. 9448, pp. 38-39 (June 2, 2026); Authority's Review Resp. at 1.

- No response.

III. THE TIGGER ATTACK PRESENCE VIOLATION

21. On October 29, 2024, A Post-Race blood sample was collected from Tigger Attack after Race 2 at Fairmount Park. The A Sample returned an Atypical Finding for Testosterone at 374 pg/mL and the B Sample confirmed the Presence of Testosterone at 363.5 pg/mL. (AB 2151-2152, ¶¶ 21-22, 25) (Uncontested Stipulation of Fact).

- Not disputed.

22. There is no evidence that Trainer Childers ever administered Testosterone to Tigger Attack. Trainer Childers never administered any medications to any of the horses owned by Dr. McCrosky or his wife, and no Testosterone was found during the Investigators' November 12, 2024 search of Trainer Childers' barn. (AB 2429, ¶ 7.31) (Final Decision); (AB 2411, ¶¶ 2.10-2.11) (Final Decision).

- Appellant did administer medications to his Covered Horses, including bute (i.e., phenylbutazone).⁴ The other facts in this paragraph are not disputed.

23. The Arbitrator accepted Trainer Childers' testimony that he did not know that Dr. McCrosky administered Testosterone to Tigger Attack until after he had been served with the Atypical Finding notice. (AB 2429-2430, ¶ 7.36) (Final Decision).

- No response.

24. The Arbitrator found that, contrary to HIWU's assertion that Trainer Childers took no precautions whatsoever, Trainer Childers made inquiries as to the medications Dr. McCrosky was administering to his Covered Horses, and there is no evidence to suggest that anyone ever informed Trainer Childers, or that he should otherwise have known, that Dr. McCrosky was administering prohibited substances to Tigger Attack. (AB 2430, ¶ 7.38) (Final Decision); (AB 2669, Tr. 233:16-21; AB 2673, Tr. 236:10-24) (Childers testimony).

⁴ AB, 2612:5-2614:7 (Childers).

- The Authority does not dispute that the Arbitrator made these findings. However, Appellant knew Dr. McCrosky was giving “unspecified stuff” to his Covered Horses; Dr. McCrosky gave “vague” and “never ... distinct” answers to Appellant’s questions; and Appellant admitted that he was “naïve” in trusting Dr. McCrosky and that he did not comply with his duty to adequately monitor and oversee the services provided by Veterinarians to his Covered Horses in this regard. Moreover, Appellant continued to train for Dr. McCrosky for months after Appellant learned that Dr. McCrosky had given Tigger Attack the Banned Substance, Testosterone.⁵

25. Because Tigger Attack was owned by Dr. McCrosky’s wife, Dr. McCrosky had unfettered access to the horse. (AB 2431, ¶ 7.41) (Final Decision).

- Not disputed.

26. The Arbitrator found: “Even with the exercise of the utmost caution, I find it unlikely Trainer Childers could have uncovered and prevented Dr. McCrosky’s misconduct.” (AB 2431, 7.41) (Final Decision).

- The Authority does not dispute that the Arbitrator made this finding.

27. The Arbitrator found Trainer Childers proved No Significant Fault or Negligence for the Tigger Attack Presence violation, assessed a seventeen-month baseline, applied a seven-month reduction for subjective factors, and imposed a ten-month period of Ineligibility at the lowest end of the moderate range. (AB 2430-2431, ¶¶ 7.37, 7.40, 7.42-7.43) (Final Decision).

- No response.

IV. THE CHILDERSATTACK PRESENCE VIOLATION

28. Childersattack tested negative for Testosterone in a Vet’s List Sample collected September 24, 2024. An Out-of-Competition blood Sample collected October 16, 2024 returned an Atypical Finding for Testosterone at 579 pg/mL, and the B Sample confirmed the finding at 496.0 pg/mL. (AB 2150-2151, ¶¶ 11-13, 19) (Uncontested Stipulation of Fact).

⁵ AB, 2669:24-2679:2 (Childers).

- Not disputed.

29. The excess Testosterone in Childersattack's system was not endogenous: Childersattack was not a ridgling with an undescended testicle at the time of Sample collection. (AB 2432, ¶ 7.49) (Final Decision); (AB 2202-2203, ¶¶ 8.26) (McCrosky Amended Final Decision).

- Not disputed.

30. The ridgling explanation originated with Dr. McCrosky, not with Trainer Childers. Dr. McCrosky authored the handwritten notes advancing that explanation and spoliated the physical evidence that could have verified it. (AB 2150-2151, ¶¶ 15, 18) (Uncontested Stipulation of Fact); (AB 2023, ¶¶ 8.27, 8.30-8.31) (McCrosky Amended Final Decision).

- As Dr. McCrosky's ridgling explanation was rejected by the ALJ in the *McCrosky* matter, the Authority denies that Dr. McCrosky spoliated the physical evidence that could have verified Childersattack's status as a ridgling, being the horse's alleged undescended testicle. Childersattack was never a ridgling and never had an undescended testicle, and thus there was no evidence to spoliage.⁶ The other facts in this paragraph are not disputed.

31. The Arbitrator denied Trainer Childers any reduction in sanction for the Childersattack Presence violation solely on the ground that Trainer Childers had not proven, by a balance of probabilities, how the Testosterone entered Childersattack's system. The Arbitrator conducted no assessment of Trainer Childers' fault with respect to Childersattack, and imposed the presumptive two-year period of Ineligibility. (AB 2432-2433, ¶¶ 7.53-7.56) (Final Decision).

- No response.

32. The source predicate on which the Arbitrator denied any reduction has now been established by stipulation: the parties agree the source of the Testosterone in Childersattack's Sample was an injection given by Dr. McCrosky. Joint Stipulation on Source of Testosterone in Covered Horses (June 30, 2026).

- No response.

33. On this review, the Authority concedes that Trainer Childers "has established on a balance of probability that the source of Testosterone present in Childersattack's sample was Dr. McCrosky's injection," that "[t]he facts of this violation are therefore comparable to the Presence

⁶ Authority's Proposed Finding of Fact ("PFF") #22.

violation for Tigger Attack,” and that the violation warrants a ten-month period of Ineligibility rather than the two years imposed. The Authority submits the total period of Ineligibility should be modified from 46 months to 32 months. Authority’s Review Resp. 1, 3.

- No response.

34. Every circumstance the Arbitrator found relevant to Trainer Childers’ fault with respect to Tigger Attack is present with respect to Childersattack: the same stipulated source (an injection by Dr. McCrosky), the same veterinarian, the same owner (Dr. McCrosky’s wife, giving Dr. McCrosky the same unfettered access), the same concealment directed at both HIWU and Trainer Childers, and the same absence of any evidence that Trainer Childers knew or could have known of the administration, Joint Stipulation on Source of Testosterone in Covered Horses (June 30, 2026); (AB 2150, ¶ 10) (Uncontested Stipulation of Fact); (AB 2430-2431, ¶¶ 7.38-7.41) (Final Decision); (AB 2203, ¶¶ 8.27-8.31) (McCrosky Amended Final Decision).

- The Authority does not dispute that Appellant’s degree of Fault for both Presence ADRVs is the same.

V. THE EASYWILLOW/KAVA KAVA POSSESSION VILATION

35. On November 12, 2024, HIWU Investigators searched Trainer Childers’ tack room, feed room, office, and barn area at Fairmount Park. Trainer Childers was not present for the search. (AB 2148-2149, ¶ 2) (Uncontested Stipulation of Facts).

- Not disputed.

36. The Investigators found and seized one tub labeled “Easywillow” on a shelf in the tack room. The Banned Substance Kava Kava was listed on the label and laboratory analysis confirmed the presence of Methysticin, the primary active compound in Kava Kava. (AB 2149, ¶¶ 3-6) (Uncontested Stipulation of Fact).

- Not disputed.

37. Trainer Childers never purchased the Easywillow product and never used it. He credibly testified that he did not know the product was in the tack room. (AB 2411, ¶ 2.9) (Final Decision); (AB 2427, ¶ 7.16) (Final Decision); (AB 2631, Tr. 195:11-19) (Childers testimony).

- Not disputed.

38. During the search, Hunter Childers advised Investigator Meyer that the Easywillow had never been used. (AB 2464, Tr. 28:11-15) (Meyer testimony). Investigator Meyer testified that the

Easywillow was tucked back on the shelf, and, according to his investigative report, the tub was “covered in dirt/dust, and the bag inside the tub appeared to be full and in its original state.” (AB 2427, ¶ 7.16) (Final Decision); (AB 362) (Meyer Investigative Report); (AB 2468, Tr. 32:16-18) (Meyer testimony).

- Not disputed.

39. After taking over the barn from his grandfather, Trainer Childers undertook to discard items he understood to be prohibited under the ADMC Program, including thyroid powder. (AB 2411, ¶ 2.8 (Final Decision); (AB 2426-2427, ¶ 7.15 (Final Decision).

- Not disputed; however, when Appellant inherited his grandfather’s barn, he “didn’t go through all the stuff that [he] should have;” he did not look at the ingredient lists of the substances on the shelf of his barn; and he “should have been more diligent.”⁷

40. The Arbitrator assessed Trainer Childers’ objective fault for the Possession violation in the moderate range, assessed a seventeen-month baseline, applied a five-month reduction for subjective factors, and imposed a twelve-month period of Ineligibility. (Ab 2427, ¶¶ 7.15-7.18) (Final Decision).

- No response.

41. In its response on this review, the Authority attacks *HIWU v. Greiner*, JAMS Case No. 1501001175, Final Decision (Corrected) (May 7, 2026), as wrongly decided, and states that it “would have appealed this decision if the Authority has the right to do so.” Authority’s Review Resp. at 2.

- No response.

VI. THE SANCTIONS IMPOSED AND THEIR STRUCTURE

42. HIWU requested a period of Ineligibility of two years for each ADRV, served consecutively, for at total of six years, together with a fine of \$25,000 per ADRV, for a total of \$75,000. (AB 2423, ¶ 6.5) (Final Decision).

- No response.

⁷ AB, 2651:14-2652:19 (Childers).

43. The Arbitrator imposed periods of Ineligibility of two years (Childersattack), ten months (Tigger Attack), and twelve months (Possession), served consecutively for a total of three years and ten months, together with a \$30,000 fine payable by the end of the period of Ineligibility. (AB 2433, ¶ 7.59); (AB 2433, ¶ 7.62); (ABG 2434, ¶ 8.1) (Final Decision).

- No response.

44. The Arbitrator's consecutive-sanctions analysis consists of three paragraphs. It quotes Rule 3223(c)(2) – which provides that “[w]here a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility shall start to run the day after the original period of ineligibility ends” – and concludes, without further analysis, that the periods of Ineligibility will be served consecutively. (AB 2433, ¶¶ 7.57-7.59) (Final Decision).

- No response.

45. Trainer Childers was not serving any period of Ineligibility at the time of the conduct underlying the three violations, at the time the violations were charged, or at the time of the Final Decision. All three violations were charged together, heard together at a single hearing, and resolved in a single Final Decision. Trainer Childers' period of Ineligibility commenced May 7, 2026. (AB 2148-2152) (Uncontested Stipulation of Fact); (AB 2143, ¶¶ 3.23-3.24); (AB 2434, ¶ 8.1(a)(i)) (Final Decision); HISA Civil Sanction Notice (May 6, 2026).

- No response.

46. Trainer Childers is a young trainer who relies on the income from training Covered Horses at Fairmount Park, nearly all of which are owned by Lois McCrosky. (AB 2503-2504, Tr. 67:10-68:17) (Meyer testimony).

- Investigator Meyer assumed that Appellant relies on income generated from training horses: “I believe it's almost all of the horses that he is training are owned by Lois McCrosky, who is the wife of Dr. McCrosky, and certainly that puts Vance in a difficult situation, being as young as he is, and reliant on that, *assumingly* relying on that income” (emphasis added).⁸ The other facts in this paragraph are not disputed.

⁸ AB, 2504:12-17 (Meyer).

REPLY TO APPELLANT'S PROPOSED CONCLUSIONS OF LAW

1. This Office has jurisdiction under 15 U.S.C. § 3058(b). Review of the final civil sanction is de novo, on the arbitration record and the parties' submissions, and this Office "may make any finding or conclusion that ... is proper and based on the record" and "may affirm, reverse, modify, set aside, or remand for further proceedings, in whole or in part, the final civil sanction of the Authority." 15 U.S.C. § 3058(b)(3); 16 C.F.R. § 1.146(c)(2).

- The correct cite is 16 C.F.R. § 1.146(b).

2. Under *In the Matter of Philip Serpe*, Docket No. 9441 (FTC June 30, 2026), the authority to "modify" permits incremental change and does not permit the addition of sanctions not imposed by the Arbitral Body; the authority to "set aside, in whole or in part" permits fundamental reduction; and because the Authority may not appeal its own final civil sanctions, this Office must typically abstain from modifying the sanction in the Authority's favor. *Id.* At 12-15 (citing *Greenlaw v. United States*, 554 U.S. 237, 244 (2008)).

- The Authority does not understand what is meant by "fundamental reduction." In *Serpe*, the Commission held that, in granting authority to "set aside," "in whole or in part" a sanction, Congress gave the ALJ and the Commission "the authority to change a sanction fundamentally by *removing* all or part of a sanction," which authority includes remanding the matter to the Authority for further proceedings in cases where the sanction is considered too lenient.⁹

3. The Authority's submission that the total period of Ineligibility be modified to 32 months (PFOF ¶ 33) fixes the outer boundary of the sanction available on this review. Consistent with *Serpe* and party-presentation principles, the disposition of this proceeding may not exceed 32 months of Ineligibility.

- Although the Authority submits that Appellant's overall period of Ineligibility should be modified to 32 months, the ALJ is not bound by the Authority's submission on appeal because "Congress has decided that the Authority cannot appeal its own final civil

⁹ [*In the Matter of Philip Serpe*](#), FTC Docket No. 944, p. 14 (June 30, 2026) ("*Serpe*").

sanctions.”¹⁰ Rather, the period of Ineligibility under appeal is 46 months and in exercising his authority to “modify” the sanction, the ceiling on the period of Ineligibility would be 46 months.

4. Trainer Childers committed one Possession violation under Rule 3214(a) and two Presence violations under Rule 3212, which impose strict liability. (PFOF ¶ 6.) Liability is not at issue on this review; the level of Trainer Childers’ fault, and the lawful structure of the resulting sanctions are.

- The Authority does not understand what is meant by “the lawful structure of the resulting sanctions.” This appeal concerns Appellant’s degree of Fault and the resultant Consequences (i.e., sanction) that should be imposed on him.

5. The precondition to relief under Rules 3224 and 3225 for the Presence violations – establishing how the Banned Substances entered each Covered Horse’s system – is satisfied as to both horses by the parties’ Joint Stipulation that the source was a Testosterone injection administered by Dr. McCrosky. (PFOF ¶¶ 9, 32; Rule 1020).

- No response.

6. The Arbitrator’s finding that “[e]ven with the exercise of utmost caution” Trainer Childers could not have uncovered and prevented Dr. McCrosky’s misconduct (PFOF ¶ 26) satisfies the definitional standard for No Fault or Negligence under Rule 1020. To the extent Rule 3224(b) is construed to bar the defence notwithstanding findings that satisfy its definition, Trainer Childers preserves the contention that the bar does not extend to a veterinarian’s administration accomplished through active deception of the Responsible Person himself.

- Appellant misstates the Arbitrator’s finding, which was: “Even with the exercise of utmost caution, I find it *unlikely Trainer Childers could have* uncovered and prevented Dr. McCrosky’s misconduct” (emphasis added). The Authority considers this finding to be an error based on the evidence adduced at the hearing, which demonstrated that had Appellant

¹⁰ [Serpe](#), p. 15.

exercised the utmost caution he would likely have avoided the ADRV.¹¹ Indeed, the Arbitrator found expressly that Appellant failed to establish No Fault.¹²

- The Authority denies that any exception to Rule 3224(b) should be created in this case. Appellant admitted that Dr. McCrosky gave “vague” and “never ... distinct” answers to Appellant’s questions, which should have put Appellant on high alert to make more thorough enquires rather than deferring entirely to Dr. McCrosky. Appellant further admitted that he was “naïve” in trusting Dr. McCrosky and that he did not comply with his duty to adequately monitor and oversee the services provided by Veterinarians to his Covered Horses in this regard.¹³

7. Alternatively, Trainer Childers has established No Significant Fault or Negligence under Rule 3225 for both Presence violations. Under the *Cilic* framework adopted by the Arbitrator (PFOF ¶ 27), his objective fault falls in the slight band (3-10 months): he made inquiries and was given misinformation (PFOF ¶¶ 13, 24); the veterinarian’s access was unfettered and his concealment deliberate (PFOF ¶¶ 14-18, 25); and no available precaution was left untaken (PFOF ¶ 26). The subjective factors credited by the Arbitrator (PFOF ¶¶ 2, 23, 27) place the sanction at the low end of the band.

- The Arbitrator did not err in imposing a ten-month period of Ineligibility on Appellant for the Tigger Attack Presence ADRV.¹⁴

8. Because every circumstance relevant to fault is identical as to Childersattack and Tigger Attack (PFOF ¶ 34), the period of Ineligibility for the Childersattack Presence violation must equal the period fixed for Tigger Attack.

- No response.

¹¹ Authority’s Response to Appellant’s PFF#24 above; Authority’s PFF #16 and 17; Authority’s Supporting Legal Brief, p. 13; AB, p. 1392, paras 8.19 and 8.21.3 (*WADA v. Nilforushan and FEI*, CAS 2012/A/2959).

¹² AB, pp. 2429-2430, para 7.36 (Final Decision, dated April 28, 2026).

¹³ Authority’s Response to Appellant’s PFF#24 above; Authority’s PFF #16 and 17; Authority’s Supporting Legal Brief, p. 13; AB, p. 1392, paras 8.19 and 8.21.3 (*WADA v. Nilforushan and FEI*, CAS 2012/A/2959).

¹⁴ Authority’s PFF #16 and 17; Authority’s Supporting Legal Brief, p. 13.

9. For the Possession violation, the Arbitrator's subjective findings (PFOF ¶¶ 37-39) and the systemic findings in *HIWU v. Greiner*, JAMS Case No. 1501001175, Final Decision (Corrected) ¶¶ 7.17-7.22, 7.29 (May 7, 2026) (Reeves, Arb.) place Trainer Childers' fault in the slight band. Consistent treatment of like cases under the Program – *Greiner* fixed four months, at the lowest end of the light range, on materially weaker facts for the trainer, *id.* ¶¶ 7.3, 7.32-7.33 – requires a period of Ineligibility of four months. The Authority's attack on *Greiner* (PFOF ¶ 41) is unavailing; the decision is final and unappealable as to the Authority. 15 U.S.C. § 3058(b)(1).

- The Arbitrator did not err in imposing a twelve-month period of Ineligibility on Appellant for the Possession ADRV.¹⁵
- The Authority does not seek to appeal *Greiner*. Rather, the Authority submits that the ALJ should not follow *Greiner* here because it was wrongly decided.¹⁶

10. Trainer Childers' challenge to consecutive sanctioning is properly presented. The grounds were stated in the Application for Review as 16 C.F.R. § 1.146(a)(1) requires (PFOF ¶ 8); the consecutive structure did not exist to be challenged until the Final Decision issued; and the lawfulness of the sanction's structure is inherent in *de novo* review under 15 U.S.C. § 3058(b)(3).

- Appellant having stated consecutive sanctioning as a ground of review in his Application for Review has no bearing on whether Appellant has shown good cause for failing to raise that argument in the Arbitration below.
- Consecutive sanctioning was a live issue in the Arbitration prior to the issuance of the Final Decision, yet Appellant failed to raise it and has not shown good cause for that failure.¹⁷
- The Authority does not understand what is meant by "the lawfulness of the sanction's structure." In any event, *de novo* review simply means that the ALJ does not have to defer to the Arbitrator's findings below. The *de novo* nature of this appeal has no bearing on

¹⁵ Authority's PFF #7 and #8; Authority's Supporting Legal Brief, pp. 15-17.

¹⁶ Authority's Supporting Legal Brief, pp. 11 and 15.

¹⁷ Authority's Supporting Legal Brief, pp. 17-18.

whether Appellant has shown good cause for failing to argue against consecutive sanctioning in the Arbitration below.

11. Rule 3223(c)(2), the sole basis for the consecutive structure imposed (PFOF ¶ 44), applies only where a Covered Person “is already serving” a period of Ineligibility. Trainer Childers was serving none (PFOF ¶ 45). Rule 3228(c)(1), on which the Authority now relies, is permissive, and the Final Decision reflects no exercise of the discretion it confers. Consecutive imposition is not the default protocol. *In the Matter of Dr. Donald McCrosky*, FTC Docket NO. 9448, at 59-61 (June 2, 2026).

- The Authority does not agree that Rule 3223(c)(2) applies in this case.
- Rule 3228(c)(1) confers discretion on HIWU (not the Arbitral Body or the ALJ) to charge two ADRVs for the same Banned Substance in different Covered Horses each as a separate first ADRV. HIWU exercised that discretion in this case. As a consequence of the exercise of that discretion, consecutive periods of Ineligibility for each ADRV are “also authorized... Otherwise, there would be no reason for HIWU to charge ‘separate’ ADRVs if that resulted in ‘absolutely no impact’ in the Ineligibility period ‘the Covered Person would end up serving’.”¹⁸

12. Exercised de novo, that discretion yields concurrency: the violations arose in a single three-week cluster (PFOF ¶ 21, 28, 35), the Presence violations form a single course of undisclosed conduct by a third party already sanctioned for twenty-four years (PFOF ¶ 9, 19, 32), and the aggregate sanction must be proportionate to Trainer Childers’ actual culpability. *In the Matter of Dr. Scott Shell*, DVM, FTC Docket No. 9439, 2025 WL 1784696, at *33-34 (Mar. 6, 2025).

- HIWU’s discretion to charge separate Presence ADRVs in this case under Rule 3228(c)(1) cannot be “exercised *de novo*” on this appeal.

¹⁸ *In the Matter of Larry Rickman Overly*, FTC Docket No. 9443, pp. 87-89 (Jan. 27, 2026); *HIWU v. Taylor*, JAMS Case No. 1501000596, paras 7.17-7.20 (July 2, 2024).

- The fact that the three ADRVs “arose in a single three-week cluster” supports that they are “based on a common set of facts”, meaning consecutive sanctioning is authorized under Rule 3228(d)(1).¹⁹
- The proportionality principle should only be applied exceptionally to reduce sanctions, and there is no basis to apply the principle on the facts of this case.²⁰

13. The \$30,000 fine, calibrated expressly to “the substantial consequences imposed” (PFOF ¶ 43), must be reduced in proportion to the reduction of the global sanction, consistent with the Program principle that “the fine should follow the fault.” *Greiner* ¶ 7.36 (fixing a \$1,000 fine for the identical Possession violation at the same level of fault); accord *McCrosky*, No. 9448, at 69. Such relief lies within the Application’s request to modify the global sanction and within this Office’s authority to set aside the final civil sanction in part. *Serpe*, at 14.

- The Authority does not dispute that the ALJ has the authority to reduce the \$30,000 quantum of the fine imposed by the Arbitrator. However, there is no basis to do so on the facts of this case. The quantum of the fine should follow the degree of Fault and the Arbitrator did not err in his assessment of Appellant’s degree of Fault for the Tigger Attack Presence ADRV or the Possession ADRV. Although the Arbitrator refrained from assessing Appellant’s degree of Fault for the Childersattack Presence ADRV based on his finding that source was not established, Appellant’s degree of Fault for that ADRV matches the degree of Fault assessed by the Arbitrator for the Tigger Attack Presence ADRV.
- The Authority denies that *Greiner* is an “identical Possession violation” as this case, and in any event, submits that imposition of a \$1,000 fine in *Griener* reflects both an abuse of

¹⁹ [*In the Matter of Dr. Donald McCrosky*](#), FTC Docket No. 9448, p. 65 (June 2, 2026).

²⁰ Authority’s Supporting Legal Brief, p. 19.

discretion and a departure from the law for the same reasons as set forth by the Authority in respect of the four-month POI imposed in *Greiner*.²¹

REPLY LEGAL BRIEF

The Authority declines to file a Reply Legal Brief and relies on the content of its initial Supporting Legal Brief.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 10th day of August, 2026.

/s/Bryan H. Beauman

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²¹ Authority's Supporting Legal Brief, pp. 15-16.