

PUBLIC
UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

FTC DOCKET NO. D-9452
ALJ: JAY L. HIMES

IN THE MATTER OF:
VANCE CHILDERS, Appellant.

APPELLANT'S REPLY BRIEF, REPLY FINDINGS OF FACT
AND CONCLUSIONS OF LAW

Filed: August 10, 2026
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INTRODUCTION

The Authority's response narrows this review considerably. It concedes that Trainer Childers established No Significant Fault or Negligence “for all three of the charged ADRVs.” Auth. COL 5. It concedes that the Childers attack period of Ineligibility must fall from two years to ten months, and that the total period of Ineligibility may not exceed 32 months. Auth. Proposed Order.¹ Liability is not contested, so the Authority's affirmance sections require no reply. The Authority abandons Rule 3223(c)(2) — the Arbitrator's sole basis for consecutive service — without a word in its defense, and offers no argument, anywhere, for the \$30,000 fine. What

¹ The Authority's brief once requests reduction “to 36 months” (Auth. Br. at 11); its Proposed Order and Conclusions uniformly request 32. The Proposed Order controls: under Serpe and party-presentation principles, 32 months is the ceiling of this review.

remains is a moderate-band defense that cannot name a single untaken precaution, a collateral attack on a decision the Authority cannot appeal, and a waiver theory the record refutes.

I. THE PRESENCE VIOLATIONS BELONG IN THE SLIGHT BAND — FOR BOTH HORSES EQUALLY

The Authority defends the low-moderate, ten-month placement and asks that Childers attack receive the same. Identical treatment is correct (PFOF ¶ 34); the placement is not. The Authority's sole defense of the moderate band is that Trainer Childers' inquiries “could have been more thorough.” More thorough with whom? The only source of information about what the veterinarian was administering was the veterinarian, who answered the inquiries actually made with misinformation (PFOF ¶¶ 13, 24). HIWU's own counsel acknowledged the problem at closing: where a veterinarian misinforms a trainer and “the trainer has no way of knowing,” counsel allowed, that “poses some issues” — before dismissing the scenario as “not the case we're dealing with here” (AB 2734, Tr. 298:4–8 (Sayao)). It is precisely the case the Arbitrator found: intentional misinformation (PFOF ¶ 13), and misconduct that “[e]ven with the exercise of utmost caution” could not have been uncovered and prevented (PFOF ¶ 26). The moderate band presumes available precautions left untaken; the Authority identifies none. Fault that survives utmost caution sits at the floor of the spectrum, and the subjective factors the Authority itself recites — youth, inexperience, intentional misdirection — complete the analysis at the low end of the slight band, with the Authority's ten months standing only as its own conceded per-violation ceiling.

II. THE ATTACK ON GREINER IS FORECLOSED, AND THE “REASONABLE STEPS” FAIL ON THE CREDITED FACTS

The Authority's principal submission on the Possession count is that *Greiner* “was wrongly decided.” That avenue is closed: Congress made the Authority's arbitral outcomes final as to the Authority, 15 U.S.C. § 3058(b)(1), and its statement that it “would have appealed this decision if

the Authority had the right to do so” (Auth. Br. at 15) concedes both the disparity and its inability to erase it. The attack also misstates the *Greiner* record: the Authority repeats that the product “had in fact been purchased online” without engaging Arbitrator Reeves' express finding that “Mr. Greiner did not purchase the product” at all; a third party bought it for her own non-Covered ponies. *Greiner* ¶¶ 7.3, 2.6.10–2.6.11. And the systemic findings do not depend on the point of sale: HIWU knew Easywillow contained a Banned Substance and warned no one; its lookup tool returns “Irbesartan” for the labeled ingredient; its own investigator did not know Kava Kava was Banned. *Id.* ¶¶ 7.17–7.22, 7.29.

The “objectively reasonable steps” collapse on the credited facts. Reading the Easywillow label and checking it against the Prohibited List presuppose knowledge of the product's existence, and the Arbitrator credited Trainer Childers' testimony that he did not know the tub was in his tack room (PFOF ¶ 37); had he read it, the Program's own tool would not have told him what it meant. The barn-purge step is answered by the Authority's own proposed finding: Trainer Childers “threw out his Thyro-L supplements because he knew those were no longer allowed.” Auth. PFF ¶ 8. That is the fact that distinguishes *Poole*, whose trainer took no steps at all. A trainer who purged what he knew of and missed a dust-covered, unopened tub on an inherited shelf is not three times more at fault than a trainer whose barn was feeding the product to ponies nightly. Rule 3040(a)(1) is a liability rule, not a fault ceiling. Four months, per *Greiner*.

III. THE CONSECUTIVITY CHALLENGE IS PROPERLY BEFORE THIS OFFICE

The Authority's waiver argument rests on 16 C.F.R. § 1.146(a)(1), which bars reliance on a question “not presented to the Authority.” This question was presented at every stage — by the Authority's own enforcement counsel. HIWU's pre-hearing brief devoted a titled section to it —

“Trainer Childers' Sanctions Should Be Separately and Cumulatively Imposed for Each ADRV” (AB 1287, ¶ 13; AB 1303, ¶ 65). HIWU argued it in opening (AB 2451, Tr. 15:1–9 (Sayao)) and in closing, telling the Arbitrator the periods “need to be stacked and served consecutively” (AB 2734–2735, Tr. 298:15–299:13 (Sayao)), and its post-hearing brief renewed the request: six years “to be served consecutively” and fines “to be imposed cumulatively” (AB 2228, ¶ 4). The Final Decision itself sources the question to “HIWU Presence Br. ¶ 65” (AB 2433, ¶ 7.57). A question the Authority's own counsel briefed, argued, and won was “presented to the Authority” on any reading of the regulation.

Trainer Childers contested it, urging at closing that the appropriate sanction was a reprimand, that the aggregate required mitigation, and that cumulative fines “may be difficult to impossible for someone of his standing to adhere to” (AB 2743–2744, Tr. 307:1–308:7 (Cueto)), and seeking in his post-hearing brief “the elimination of all Consequences” (AB 2214, 2222; Reply FOF ¶ 26). A party who asks for zero has disputed the aggregate; the greater includes the lesser. The Authority's proposed finding that Trainer Childers “never argued” against the global sanction (Auth. PFF ¶ 26) cannot be reconciled with the record it cites.

This Office has enforced § 1.146(a)(1) evenhandedly — against the Authority. In *Shell*, where HIWU pressed one consecutivity theory throughout the arbitration and switched rules only after the decision issued, this Office called the omissions “inexcusable” and declined to entertain the new theory (AB 856–863). The same principle governs here, where it is again the Authority migrating between rules on review while faulting Trainer Childers for the Arbitrator's reliance on a rule no party defends. Good cause is never reached; in any event, cause appears on the face of the Decision: the three paragraphs under challenge, resting entirely on Rule 3223(c)(2), appeared

for the first time in the April 28 Final Decision (PFOF ¶ 44), and the Application for Review was the first opportunity to challenge the sanction as structured (PFOF ¶ 8).

IV. THE RULES' TEXT, THIS OFFICE'S PRECEDENT, AND THE RECORD ALL YIELD CONCURRENCY

Across three filings, the consecutive structure has now been attributed to three different rules: the Arbitrator rested it solely on Rule 3223(c)(2) (PFOF ¶ 44); the Authority's response defended it under Rule 3228(c)(1); and its brief now adds Rule 3228(d)(1). No one any longer defends the only rule the Arbitrator cited — with reason: it applies where a Covered Person “is already serving” a period of Ineligibility, and Trainer Childers was serving none (PFOF ¶ 45); *accord Shell* (AB 859–860).

The rules to which the Authority has migrated do not fill the gap, because the Protocol's text forecloses them. Where Rule 3228 mandates consecutive service, it says so expressly: subsection (c)(2) (violations twelve months or more apart) and subsection (c)(3) (an independent Tampering violation) each direct that the period “be served consecutively to, rather than concurrently with,” the other period, and subsection (c)(4) reaches violations committed during an existing period of Ineligibility (AB 984; 88 Fed. Reg. 5104–05). None applies: all three violations arose in a three-week window (PFOF ¶¶ 21, 28, 35), before any notice, with no Ineligibility in place and no Tampering by the trainer. Rule 3228(c)(1), the provision the Authority invokes, contains no service language at all — it provides only that multiple pre-notice violations “may (at the Agency's discretion) each be treated as a first Anti-Doping Rule Violation,” addressing classification, not service. The drafters wrote “consecutively . . . rather than concurrently” where they meant it; its absence from (c)(1) is dispositive, and silence in the sanctions Rules “should generally be construed in favor of, not against, those subject to discipline.” *McCrosky*, No. 9448, at 61. Rule 3228(d) governs common-facts violations involving both “a Banned Substance or

Method and a Controlled Medication Substance or Method,” and even there directs consolidated adjudication — not consecutive service (AB 984). Every violation in this case involves a Banned Substance; no Controlled Medication violation exists to pair with.

Ruiz, which HIWU pressed below, grounded Rule 3228(c)(1) charging discretion in the premise that the trainer's own administration of the same substance to multiple horses “cannot be considered a mistake” (AB 1610, ¶¶ 8.5–8.6) — a premise the Joint Stipulation forecloses: the administrator was the veterinarian, not the trainer (PFOF ¶¶ 9, 32). And the Authority's remaining theory — that HIWU “exercised the discretion it is granted under that Rule to charge each of the two Presence ADRVs separately as a first ADRV, meaning the resultant POIs run consecutively” (Auth. Br. at 18) — locates the sanction's architecture in enforcement counsel's charging election, weighed by no adjudicator at all. That is not the justified exercise of discretion this Office required in *McCrosky*, No. 9448, at 59–61; it is discretion's absence, relocated to the prosecutor.

Exercised de novo — review the Authority itself concedes is de novo (Auth. Br. at 12) — that discretion yields concurrency. This Office has held that multiple ADRVs “based on a common set of facts, are often treated as a single violation for sanctions purposes,” and that imposing “consecutive Ineligibility periods and cumulative fines” for violations arising from a single course of conduct “would be grossly disproportionate”: “The Arbitrator rejected HIWU's effort to impose individual sanctions for each ADRV, and so do I.” *Shell* (AB 854–855) (collecting authorities incl. *Puype*); *accord* AB 874–875 (upholding charging authority while “reject[ing], under the recognized sports law proportionality principle, per charge sanctions”). Charging authority is not a sanctioning mandate. The Authority's answer — that Trainer Childers is young enough to absorb 32 months (Auth. Br. at 19) — inverts the Arbitrator's analysis, which credited youth and

inexperience as mitigation (PFOF ¶ 27), and ignores that his livelihood depends on the horses he trains at Fairmount Park (PFOF ¶ 46).

V. THE AUTHORITY OFFERS NO DEFENSE OF THE FINE

The Authority's brief contains no argument for the \$30,000 fine, yet its Proposed Order leaves it intact while cutting by fourteen months the “substantial consequences imposed” to which the Arbitrator expressly indexed it (PFOF ¶ 43). The party that invokes waiver against Trainer Childers has itself submitted nothing in defense of the fine. Degree of fault properly informs the fine, and this Office has adjusted fines in proportion to Ineligibility. *Shell* (AB 866, 874). On the Authority's own concession the fine must fall at least proportionally; on a correct fault analysis, it follows the fault to the *Greiner* benchmark. *Greiner* ¶¶ 7.36–7.38; *accord McCrosky*, No. 9448, at 69.

CONCLUSION

The relief requested in Trainer Childers' opening submission should be granted in full. Under any disposition, the Authority's Proposed Order fixes the ceiling at 32 months. And nothing in the Authority's brief supplies what the Final Decision lacks: a reasoned basis, grounded in any rule the Protocol actually contains, for stacking three sanctions end to end against the one participant in these events whom every fact-finder has found did not know — because he was not told.

REPLY FINDINGS OF FACT

Authority PFF ¶ 1:

Appellant is a Trainer and Covered Person under the Anti-Doping and Medication Control Program (“ADMC Program”) pursuant to ADMC Program Rule 3020.

No disagreement.

I. Facts Relevant to Possession Charges

Authority PFF ¶ 2:

On November 12, 2024, HIWU Investigator Matthew Meyer (“Investigator Meyer”) and HIWU Director of Investigative Operations Shawn Loehr (collectively, the “Investigators”) conducted a search of Appellant's tack room, feed room, office, and barn area (the “Search”) at the Fairmount Park Racetrack in Collinsville, Illinois (“Fairmount Park”).

No disagreement.

Authority PFF ¶ 3:

The Search was conducted further to and immediately following the Investigators' attempt to personally serve Appellant with a Notice of Atypical Finding (“Atypical Notice”) concerning a Testosterone positive result recorded for Appellant's Covered Horse, Childersattack.

No disagreement.

Authority PFF ¶ 4:

During the Search, the Investigators found and seized a tub labeled “Easywillow” on a shelf in Appellant's tack room. The label of the Easywillow tub listed the Banned Substance Kava Kava (also known as “Kava” or Piper Methysticum), a Category S0 Banned Substance under the ADMC Program.

No disagreement.

Authority PFF ¶ 5:

Appellant had used that tack room since 2020, when it was transferred to him from his grandfather, and no one other than those working under Appellant's direction, such as his brother Hunter Childers, had access to it.

No disagreement.

Authority PFF ¶ 6:

Following the Search, a sample of the Easywillow product was sent for forensic analysis to Industrial Laboratories (an ADMC Program Laboratory), which confirmed the presence of Methysticin, the primary active compound in Kava Kava.

No disagreement.

Authority PFF ¶ 7:

Appellant never checked the ingredient list of the Easywillow container to see if it contained any Banned Substances.

No disagreement that Trainer Childers never checked the ingredient list. The finding is incomplete: the Arbitrator credited that he did not know the product was in his tack room. (PFOF ¶ 37; AB 2427, ¶ 7.16.)

Authority PFF ¶ 8:

Although Appellant threw out his Thyro-L supplements because he knew those were no longer allowed under the ADMC Program, he did not do a thorough search of his barn to ensure all Banned Substances were purged.

No disagreement that Trainer Childers discarded his Thyro-L knowing it was no longer allowed. “Did not do a thorough search” is incomplete: the Arbitrator found he undertook to discard the items he understood to be prohibited. (PFOF ¶ 39; AB 2426–27, ¶ 7.15.)

Authority PFF ¶ 9:

On April 21, 2025, HIWU charged Appellant with a Possession ARDV.
No disagreement.

II. Facts Relevant to Tigger Attack Presence Charge

Authority PFF ¶ 10:

Tigger Attack is a Covered Horse and gelding trained by Appellant and medically cared for Dr. Donald McCrosky.

No disagreement.

Authority PFF ¶ 11:

Tigger Attack tested positive for Testosterone in a Post-Race Sample collected on October 29, 2024, after Race 2 at Fairmount Park. The presence of Testosterone in the Tigger Attack Sample at a concentration above the ADMC Program Threshold for geldings (100 pg/mL) was confirmed in both the A Sample and B Sample by separate analyses conducted by two ADMC Program Laboratories.

No disagreement.

Authority PFF ¶ 12:

On March 5, 2025, HIWU charged Appellant with a Presence ADRV.

No disagreement.

Authority PFF ¶ 13:

Dr. McCrosky testified under oath in a separate ADMC Program arbitration hearing concerning multiple ADRVs charged against him (the “McCrosky Arbitration”) that: (i) he generally administers 1 cc of Testosterone to Covered Horses at least 5-6 days before a race if the horse is not eating or “off-feed”, in order to stimulate their appetites; (ii) he administered Testosterone to Tigger Attack 5 days before his October 29, 2024 race because he was off-feed; (iii) and that Appellant was not involved in and did not know anything about the administration of Testosterone to Tigger Attack.

No disagreement.

Authority PFF ¶ 14:

Based on that evidence, the Arbitrator affirmed a Use ADRV in the McCrosky Arbitration. Although Dr. McCrosky appealed that decision, he acknowledged that the Use ADRV was proven.

No disagreement.

Authority PFF ¶ 15:

On June 30, the Authority and Appellant filed a Joint Stipulation on Source of Testosterone in Covered Horses (the “Joint Stipulation”) by which they stipulated and agreed that the source of the Testosterone in Tigger Attack's October 29, 2024 Sample was a Testosterone injection given to Tigger Attack by Dr. McCrosky.

No disagreement.

Authority PFF ¶ 16:

Appellant made certain enquiries as to medications Dr. McCrosky was administering to his Covered Horses, and based on Dr. McCrosky's responses, Appellant assumed that Dr. McCrosky was only using permitted substances. Appellant “deferred” to and “trusted” Dr. McCrosky.

No disagreement that inquiries were made and assurances received. Incomplete: the Arbitrator rejected HIWU's no-precautions assertion and found no evidence he should otherwise have known. (PFOF ¶ 24; AB 2430, ¶ 7.38.)

Authority PFF ¶ 17:

Appellant is a “young, inexperienced trainer” and although his enquiries could have been more thorough, “Dr. McCrosky intentionally misled Trainer Childers regarding the substances he provided to his Covered Horses.”

No disagreement with the quoted findings, which are incomplete without: “[e]ven with the exercise of utmost caution, I find it unlikely Trainer Childers could have uncovered and prevented Dr. McCrosky's misconduct.” (PFOF ¶ 26; AB 2431, ¶ 7.41.)

III. Facts Relevant to Childersattack Presence Charge

Authority PFF ¶ 18:

Like Tigger Attack, Childersattack is a Covered Horse and gelding trained by Appellant and medically cared for by Dr. McCrosky.

No disagreement.

Authority PFF ¶ 19:

Childersattack had a negative result (i.e., no presence of Testosterone) from a Vet's List Sample collected on September 24, 2024.

No disagreement.

Authority PFF ¶ 20:

Childersattack tested positive for Testosterone in an Out-of-Competition (“OOC”) Sample collected on October 16, 2024, at Fairmount Park. The presence of Testosterone in the Childersattack Sample at a concentration above the ADMC Program Threshold for geldings (100 pg/mL) was confirmed in both the A Sample and B Sample by separate analyses conducted by two ADMC Program Laboratories.

No disagreement.

Authority PFF ¶ 21:

Dr. McCrosky testified under oath in the McCrosky Arbitration that Childersattack's Testosterone positive was due to the Covered Horse having one Testosterone-producing undescended testicle left intact after a partial castration, such that the horse's gender status was ridgling rather than gelding. However, the arbitrator rejected that evidence and affirmed a Tampering ADRV against Dr. McCrosky.

No disagreement.

Authority PFF ¶ 22:

On appeal, the ALJ also rejected Dr. McCrosky's ridgling explanation and affirmed the Tampering ADRV against him. The ALJ held that Childersattack was a gelding and had been injected with Testosterone by Dr. McCrosky [quoting In the Matter of Dr. Donald McCrosky, FTC Docket No. 9448, pp. 38-39].

No disagreement.

Authority PFF ¶ 23:

In the June 30 Joint Stipulation, the Authority and Appellant stipulated and agreed that the source of the Testosterone in Childersattack's October 16, 2024, Sample was a Testosterone injection given to Childersattack by Dr. McCrosky.

No disagreement.

Authority PFF ¶ 24:

As with Tigger Attack, Childersattack was medically cared for by Dr. McCrosky, and Appellant made the same general inquiries of Dr. McCrosky regarding the medications being administered to both of his Covered Horses, receiving the same vague and misleading assurances that only permissible substances, such as vitamins or “buildup,” were being given.

No disagreement.

Authority PFF ¶ 25:

That said, although Appellant's enquiries could have been more thorough, Dr. McCrosky fabricated the ridgling explanation for Childersattack's positive test in an effort to cover up his own misconduct.

No disagreement, subject to the incompleteness identified in reply to ¶ 17. (PFOF ¶¶ 26, 34.)

IV. Facts Relevant to Consecutive Sanctioning and Proportionality

Authority PFF ¶ 26:

Appellant never argued in the arbitration below that the three periods of Ineligibility imposed on him should not be served consecutively and/or that the overall sanction should be reduced on grounds of proportionality.

Disagreed. Trainer Childers urged at closing that the aggregate be mitigated to a reprimand and that cumulative fines would be beyond his means (AB 2743–44, Tr. 307:1–308:7 (Cueto)); his post-hearing brief sought “the elimination of all Consequences” (AB 2214, 2222). And HIWU itself presented and litigated consecutive service below. (AB 1287, ¶ 13; AB 1303, ¶ 65; AB 2734–35, Tr. 298:15–299:13 (Sayao); AB 2433, ¶ 7.57.)

Authority PFF ¶ 27:

Appellant was represented by the same counsel as Dr. McCrosky in the prior McCrosky Arbitration, in which consecutive sanctioning and proportionality were squarely at issue.

No disagreement that the same counsel appeared in both matters. The fact establishes presentation, not waiver: consecutivity was a known, litigated question, briefed and argued by HIWU here as well. (See reply to ¶ 26.)

Authority PFF ¶ 28:

The Arbitrator gave the parties the opportunity to provide post-hearing submissions following the issuance of the McCrosky Arbitration decision, on the impact, if any of that decision on the issues in the Arbitration below.

No disagreement that the Arbitrator invited briefing on the McCrosky decision's impact.

Incomplete: both parties addressed the global sanction in that briefing (AB 2228, ¶ 4; AB 2214, 2222), and the consecutive structure under review did not yet exist. (PFOF ¶ 44.)

REPLY CONCLUSIONS OF LAW**Authority COL 1:**

Appellant was in Possession of the Kava Kava found by HIWU Investigators in Appellant's tack room, a premises over which Appellant had exclusive control, during the Search.

No disagreement; liability is not contested on this review.

Authority COL 2:

Appellant failed to discharge his burden to establish a “compelling justification” for possessing the Kava Kava, a defense to a Possession charge which should be interpreted restrictively. Appellant therefore committed a Possession ADRV.

No disagreement.

Authority COL 3:

Appellant committed two Presence ADRVs as the B-Samples collected from his Covered Horses, Tigger Attack and Childersattack, respectively, confirmed the presence of Testosterone in their respective A-Samples, at reported concentrations above the applicable Thresholds for geldings of 100 pg/mL Testosterone in blood.

No disagreement.

Authority COL 4:

The source of Testosterone in the Samples collected from Childersattack and Tigger Attack giving rise to their respective AAFs was a Testosterone injection given to each Covered Horse by Dr. McCrosky, who was the Covered Horses' Veterinarian at the relevant time.

No disagreement.

Authority COL 5:

Appellant established No Significant Fault or Negligence for all three of the charged ADRVs.

Agreed. The remaining question is placement within the 3-to-24-month range.

Authority COL 6:

Appellant should be subject to a ten-month period of Ineligibility (“POI”) for the Childersattack Presence ADRV based on his objective and subjective degree of Fault (the same length of Ineligibility as that imposed for the Tigger Attack Presence ADRV pursuant to the Arbitrator's Final Decision dated April 28, 2026 (the “Decision”)).

Agreed as to the ten-month ceiling and identical treatment of both Presence violations; disputed as to placement — the findings put both in the slight band. (Reply Br. § I.)

Authority COL 7:

Appellant has not shown good cause for failing to raise the issue of whether the POIs imposed for the three ADRVs affirmed against him should run concurrently or consecutively and he is barred from arguing for the first time in this review that the POIs should be consecutive.

Disputed. The question was presented and litigated below, principally by HIWU. (Reply to PFF ¶¶ 26–28; Reply Br. § III.)

Authority COL 8:

Rule 3228(c)(1) authorizes the imposition of consecutive POIs for multiple Presence ADRVs for the same Banned Substance in relation to different Covered Horses.

Disputed. Rule 3228(c)(1) contains no service language; the Protocol mandates consecutive service only in Rules 3228(c)(2)–(4) and 3223(c)(2), none of which applies. (AB 984; Reply Br. § IV.)

Authority COL 9:

The proportionality principle should only be applied exceptionally and restrictively to reduce the global Consequences that would otherwise apply pursuant to the ADMC Program; it should not become the norm.

Disputed as applied; this Office applied proportionality to a single course of conduct. (AB 854–55, 874–75; Reply Br. § IV.)

Authority COL 10:

The Arbitrator did not err in declining to apply the proportionality principle to reduce the overall Consequences imposed against Appellant in the circumstances of this case, including that Appellant is at a relatively early stage of his career.

Disputed. The Final Decision contains no proportionality analysis to which deference could attach. (PFOF ¶ 44; Reply Br. § IV.)

Authority COL 11:

Other than in respect of the POI for the Childersattack Presence ADRV, the Consequences imposed by the Arbitrator are not arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. They are supported by, and rationally connected to, the evidence.

Disputed. Review is de novo, as the Authority concedes (Auth. Br. at 12) and its Childersattack request presumes. 15 U.S.C. § 3058(b). (Reply Br. § IV.)

Respectfully submitted,

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**CERTIFICATE OF SERVICE AND
ARTIFICIAL INTELLIGENCE CERTIFICATION**

I hereby certify that on August 10, 2026, I caused a true and correct copy of Appellant's Reply Findings of Fact, Conclusions of Law, and Supporting Brief to be served upon the following parties by electronic mail and filed with the Office of the Secretary of the Federal Trade Commission:

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A copy has been simultaneously transmitted to the Office of Administrative Law Judges by electronic mail at OALJ@ftc.gov, and one hard copy has been delivered by overnight mail to:

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ARTIFICIAL INTELLIGENCE CERTIFICATION

Pursuant to Attachment 1, Paragraph 2(b) of this Court's Order dated July 7, 2026, the undersigned hereby certifies as follows:

Portions of this filing were drafted with the assistance of generative artificial intelligence. All language in this filing that was drafted by generative artificial intelligence was reviewed and checked for accuracy by the undersigned, a licensed attorney, using printed legal reporters and online legal databases to counsel.. The undersigned takes full professional responsibility for the contents of this filing as submitted.

Date: August 10, 2026

Respectfully submitted,

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