

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

In the Matter of)
)
JASON SCOTT, DVM,)
)
Appellant,)
vs.) **Matter No. _____.**
)
THE HORSERACING INTEGRITY &)
SAFETY AUTHORITY, a federal)
administrative agency.)
Appellee.)

APPELLANT’S APPLICATION FOR REVIEW

Appellant Jason Scott, pursuant to 15 U.S.C. §3058(b) and 16 C.F.R. 1.146, requests review of civil sanction (attached as **Exhibit A**) imposed against him by the Horseracing Integrity and Safety Authority (“Authority”). The sanctions include a \$25,000 fine, \$5,000 in costs, and (effectively) a five-month suspension.

Dr. Scott exclusively seeks review of whether the undisputed facts constitute a violation of the Authority’s anti-doping and medication control protocol (hereinafter, “Protocol”) under 15 U.S.C. § 3058(b)(2)(A)(ii) and, if so, whether the rules allegedly violated are valid. Dr. Scott does not appeal the computation of the length or dates of the penalty.

“The basic facts are not in dispute.” (Ex. A at 35; *see Scott JAMS Closing FINAL*, “Closing Demo” at 10-15.) Dr. Scott possessed two medications as part of a pre-race protocol that was considered standard-of-care for New Mexico’s (Non-Covered) Quarter Horses. He intended exclusively to treat *eight* Quarter Horses at the racetrack on the day of the search. The record is adequate for review with the exception of Dr. Tony Pickard’s testimony (substantially summarized in Dr. Scott’s Proposed Findings of Fact (¶¶ 79–84)), which was erroneously not recorded and requires inclusion by affidavit, stipulation, or a hearing to reflect his testimony.

Issue 1: Does the Authority have subject matter jurisdiction?

Preservation: Rule 7090 Notice of Objections (10-17-25); Motion for Summary Disposition (10-24-2025); Respondent’s Pre-Hearing Brief at ¶¶ 20–58; Respondent’s Proposed Conclusions of Law (Proposed Disposition A, B).

Argument: The Authority is a creature of statute and has no power except what a statute gives it. *Nat’l Fed’n of Indep. Bus. v. Dep’t of Lab., Occupational Safety & Health Admin.*, 595 U.S. 109, 117 (2022). The Horseracing Integrity and Safety Act (“Act”) creates a regulatory regime to regulate the care, treatment, training, and racing of Covered Horses. 15 U.S.C. § 3054(a)(B). By its terms, the Act does not apply to conduct pertaining to the care, treatment, training, or racing of Non-Covered Horses. 15 U.S.C. § 3054(l). Because there was no genuine dispute that the conduct at issue exclusively involved the care, treatment, training, and racing of *Non-Covered Horses* at the time and place where the medications were found, the Authority lacked jurisdiction.

Issue 2: Do the undisputed facts show a compelling justification?

Preservation: Same as “Point 1.”

Argument: Unlike other veterinarian cases like *Perez*, *Shell*, and *Overly*, here a Covered Veterinarian possessed medication for standard-of-care use in Non-Covered Horses at the racetrack on the day of the search. (Closing Demo at 3–9.) The “compelling justification” test applied there has no basis in the statute or rules. When the term “justification” is defined by reference to a *legal defense*, it means that a person “has acted in a way that the law does not seek to prevent.” JUSTIFICATION DEFENSE, Black’s Law Dictionary (12th ed. 2024). The Authority has no jurisdiction to regulate Dr. Scott’s medical decisions as to Quarter Horses in New Mexico. 15 U.S.C. § 3054(l). Because “what cannot be done directly from defect of power, cannot be done indirectly,” the Authority cannot circumvent that jurisdictional limitation under the guise of

“compelling justification” analysis. *Wayman v. Southard*, 23 U.S. 1, 50 (1825). (See “Closing Demo” at 19-22.)

Point 3: Are Rules 3214(a), 4111, and 4117(e) void (i) for non-compliance with rulemaking procedures, (ii) as arbitrary and capricious, and/or (iii) as to Rule 3214(a) only, for vagueness?

Preservation: Rule 7090 Notice of Objections (10-17-25); Briefs in Support of Objection Rule 7090 Objections (10-17-25). Brief in Support of Objection to Rule 4117(e) (10-17-25); Respondent’s Pre-Hearing Brief, ¶¶ 63–75.

Argument: If a violation is found, the sanction is nevertheless void. Any rule promulgated by the Authority lacks legal effect unless and until it is lawfully approved by the FTC. 15 U.S.C. § 3053(b)(2). The Authority must “submit” proposed rules to the FTC “in accordance with” FTC regulations and provide an opportunity for notice and comment. 15 U.S.C. §§ 3053(a), (b); 3055(a)(1); 3057(a)(1). That submission (which takes the form of a notice in the Federal Register) must contain a “statement of purpose” with detailed answers to numerous prompts. 16 C.F.R. § 1.142(a). Conclusory statements and mere assertions are “insufficient.” 16 C.F.R. § 1.142(e). This regulation effectively codifies the common-law obligation of an administrative body to show, on the contemporaneous record produced when taking the action in the first instance, that it “examine[d] the relevant data and articulate[d] a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’”¹ The submissions for Rules 3214(a) (possession) and 4111 and 4117 (defining prohibited substances at issue) met none of Section 1.142(a)’s requirements. (“Closing Demo” at 2, 23-26.)

¹ *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (citation omitted)

Point 4: Does the Act unconstitutionally delegate legislative power as to the “anti-doping program” as a whole or, alternatively, as to “Possession” of “Prohibited Substances” in violation of the legislative/public non-delegation doctrine?

Preservation: Rule 7090 Notice of Objections (10-17-25) and Brief in Support of Constitutional Objections (10-17-2025).

Argument: The Act unconstitutionally delegates legislative power to the FTC and the Authority to develop an “anti-doping program” for an entire industry with virtually no guidance. *See Fed. Commc'ns Comm'n v. Consumers' Rsch.*, 606 U.S. 656, 673 (2025). In the Authority’s words, the legislative scheme permits “countless alternatives.”² The FTC and the Authority have unbridled discretion to determine what the “anti-doping” law for Thoroughbred racing will be, especially in the context of “possession.”

Point 5: Do the Act and the Protocol unconstitutionally vest with the Authority and HIWU with executive powers in violation of the private non-delegation doctrine?

Preservation: Same as “Point 4.”

Argument: The Act and Protocol vest HIWU and the Authority with executive powers to investigate violations and initiate enforcement action. Because these private entities are not “merely giving advice” but are exercising government power, the Act and Protocol are unconstitutional. *Consumers' Rsch.*, 606 U.S. at 698.

² Rulemaking App’x Ex. 2, Fed. Reg. Vol. 88, No.17 (Jan. 26, 2023) at 5071.

Dated: March 10, 2026.

Respectfully submitted,

/s/ Joseph C. DeAngelis

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CERTIFICATE OF SERVICE

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of the foregoing is being served this 10th day of March, 2026, via First Class mail, e-filing, and/or email upon the following:

Office of the Secretary

Federal Trade Commission
600 Pennsylvania Avenue NW, Suite CC-5610
Washington, DC 20580

Office of Administrative Law Judges

Hon. D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW Washington, DC 20580
(Via e-mail to ojl@ftc.gov and electronicfilings@ftc.gov)

Horseracing Integrity and Safety Authority

Samuel Reinhardt (email samuel.reinhardt@hisus.org)
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/s/ Joseph C. DeAngelis

**BEFORE THE HORSERACING INTEGRITY AND SAFETY AUTHORITY'S ANTIDOPING
AND MEDICATION CONTROL PROGRAM ARBITRATION PANEL
ADMINISTERED BY JAMS, CASE NO. 1501001099**

In the Matter of the Arbitration Between:

HORSE RACING INTEGRITY WELFARE UNIT,

Claimant,

v.

DR. JASON SCOTT,

Respondent.

FINAL DECISION

I, the undersigned Arbitrator, having been designated, and having been sworn, and having duly heard the allegations, arguments, submissions, proofs, and evidence submitted by the Parties, and after a full evidentiary hearing occurring in person and via Zoom in Dallas, Texas, on November 19 and 20, 2025, pursuant to the Horseracing Integrity and Safety Act of 2020 and its implementing regulations, do here FIND and DECIDE as follows:

1. INTRODUCTION

1.1 This case involves allegations of the presence of Prohibited Substances in a van owned and occupied by Respondent, Dr. Jason Scott.

1.2 Claimant, the Horse Racing Integrity Welfare Unit ("HIWU"), is the United States government-recognized entity responsible for sample collection and results management in the anti-doping testing of thoroughbred racehorses in the United States, pursuant to the Horseracing Integrity Act of 2020, 15 U.S.C. Secs.

3051-3060. HIWU is represented by Allison J. Farrell, Paul J. Greene, and Ryan Lipes of Global Sports Advocates.

1.3 Dr. Scott is a veterinarian who treats thoroughbred and quarter horse racehorses in New Mexico and Texas, and who resides in the State of Texas.

2. THE FACTS ACCORDING TO HIWU

A. Jurisdiction

2.1 Dr. Jason Scott is a veterinarian who treats both Covered and non-Covered Horses at racetracks in New Mexico, including Sunland Park.

2.2 Sunland Park is a racetrack in New Mexico regulated by the New Mexico Racing Commission (“NMRC”). Both Covered Horses and non-Covered Horses race at Sunland Park.

2.3 Sunland Park is a Covered Racetrack, and HIWU has jurisdiction over Covered Persons and Covered Horses at Sunland Park.

2.4 The parties have stipulated and agreed that the seat of this arbitration is Sunland Park, New Mexico.

B. The Search of Dr. Scott’s Vehicle on February 13, 2025

2.5 On February 13, 2025, HIWU Investigators Brian Bennett, Lane Ruddick, and Bret Smith conducted a search of Dr. Scott’s veterinary truck at Sunland Park.

2.6 Only Covered Horses were racing at Sunland Park on February 13, 2025.

2.7 The search began at approximately 7:30 AM, as HIWU investigators did not want to delay veterinarians like Dr. Scott on a race day.

2.8 According to Investigator Bennett, Dr. Scott was reluctant to provide access to his veterinary truck, saying that he had to give Lasix to a horse that was racing that day.

2.9 When Investigator Bennett mentioned that no horse was racing until 12:20 PM (and thus the earliest Lasix could be given was 8:20 AM), Dr. Scott stated that the horse needing Lasix was housed at the Frontera Training Center.

2.10 Investigator Bennett became suspicious of this reasoning because Lasix administration for a horse racing at Sunland Park is not permitted off-track at Frontera; however, Investigator Bennett assured Dr. Scott that the search should only take 15-20 minutes.

2.11 During the search, Investigator Bennett found two bottles clearly labeled as Pitcher Plant, also known as Sarapin, and placed them in evidence as BB-1 and BB-2.

- a. BB-1 was found in the top left drawer of Dr. Scott's veterinary cabinet.
- b. BB-2 was found inside a blue plastic tote, which also included hypodermic needles and other medications.

2.12 Dr. Scott admitted possessing and using the Pitcher Plant, but he stated to Investigator Bennett that he only used it on non-Covered Quarter Horses for the treatment of "sacroiliac issues."

2.13 Investigator Bennett also found two bottles of Adenosine Monophosphate, also known as AMP, in the top middle drawer of Dr. Scott's

veterinary cabinet, and placed them in evidence as BB-3 and BB-4.

2.14 Each AMP bottle stated: "Each ml contains: 200 mg of Adensoine-5-Monophosphoric acid in Benzyl Alcohol 1.5% as preservative."

2.15 Dr. Scott admitted possessing and using the AMP, but he told Investigator Bennett that he used AMP only on Quarter Horses for treatment of issues associated with "tying up."

2.16 Dr. Dionne Benson, an expert in veterinary medication regulations and an experienced regulatory veterinarian, testified that Pitcher Plant and AMP must be controlled by possession rules because neither substance can be successfully identified in post-race anti-doping testing.

C. Pitcher Plant is a Banned Substance

2.17 Pitcher Plant is explicitly Banned at all times under ADMC Program Rule 4117.

D. AMP is a Banned Substance

2.18 AMP, although not explicitly named in the ADMC Program Rules, is prohibited under Rule 4111 as an S0 Non-Approved Substance.

2.19 A substance is Banned under Rule 4111 when it is (i) not otherwise listed in Rules 4112 through 4117, (ii) not approved by any governmental regulatory health authority for veterinary or human use, and (iii) the substance is not universally recognized by a veterinary regulatory organization as a valid veterinary use.

2.20 Dr. Benson testified that the FDA withdrew any approval for AMP in 1973, and no other governmental authority in the United States has approved AMP for veterinary or human use

2.21 Dr. Scott's expert, Dr. Clara Fenger, agreed that AMP is not FDA approved in the United States, but asserted that Australia has approved a medication containing AMP.

2.22 But as Dr. Benson testified, the FDA bans the importation of medications not approved in the United States.

2.23 Additionally, the bulk drug application for AMP—which was ultimately rejected by the FDA—explicitly states that the Australian version of AMP is “not available in the United States.”

2.24 AMP is also not universally recognized by veterinary regulatory authorities as having a valid veterinary use.

2.25 In 2015, the FDA reiterated that AMP is “neither safe nor effective for its intended uses as a vasodilator and an anti-inflammatory.”

2.26 Additionally, Dr. Benson opined that there is no scientific literature that supports the use of AMP to treat “tying up” (also referred to as “rhabdomyolysis”).

2.27 Rule 4111 also has two exceptions: if the drug is compliant with the Animal Medicinal Drug Use Clarification Act (“AMDUCA”), and if the drug is compliant with the FDA’s Guidance for Industry (“GFI”) #256.

2.28 AMP is not compliant with the AMDUCA because only FDA-approved medications can be compliant with the AMDUCA.

2.29 The AMP here did not comply with GFI #256 because:

a. GFI #256 only applies in narrow circumstances when no other medically appropriate treatment option exists; however, there are recognized, FDA-approved treatments for tying-up that include FDA-approved tranquilizers and non-steroidal anti-inflammatories combined with fluid therapy.

b. Additionally, FDA-approved preventative medications are available for tying up, including phenytoin and dantrolene.

c. The bottles did not comply with GFI #256's labeling requirements by failing to state (i) the species of the patient(s) and the indication(s) for which it will be used, (ii) contact information for the manufacturer, (iii) name and contact information for the veterinarian ordering office stock, (iv) an FDA-required statement about reporting suspected adverse reactions, (v) an FDA-required statement that it is a compounded drug, (vi) an FDA-required statement that the drug cannot be used in food-producing animals, and (vii) an FDA-required warning that restricts the drug to use by or on order of a veterinarian.

2.30 Dr. Benson testified that, for these reasons, AMP is a Banned Substance under ADMC Program Rule 4111.

2.31 On the other hand, Dr. Scott's expert, Dr. Clara Fenger, asserted that the labeling information is sometimes included on the packaging or an insert, although she indicated she had not seen compliant packaging in this case.

2.32 Nor did Dr. Scott produce an insert or packaging compliant with GFI #256 during the hearing.

2.33 Based only on the possibility that a label with the correct information might exist, Dr. Fenger opined that there was insufficient evidence to find that AMP was possessed in violation in Rule 4111.

2.34 Other panels, however, have repeatedly found that Dr. Fenger is not credible, including:

a. In *HIWU v. Mario Dominguez*, where the arbitrator found that “Dr. Fenger does not have the degree of independence required of an impartial expert offering expert opinions on the pertinent issues in this case.”

b. In *HIWU v. Natalia Lynch*, where the arbitrator found that “Dr. Fenger has a long-standing and ongoing relationship with the Horsemen, which substantially detracts from her impartiality, and thus, the persuasive value of any substantive testimony she might otherwise offer.”

c. In *Per Engblom (Trainer) v. New Jersey Racing Commission*, where the Commission found that her conclusion was “flawed,” her theory was “conjecture,” and rejected a state Administrative Law Judge’s finding that her testimony and expert report were “credible.”

2.35 As AMP did not meet any of the exceptions in Rule 4111, it is a Banned Substance.

E. HIWU’s Notice and Dr. Scott’s Explanation to HIWU

2.36 On April 30, 2025, HIWU sent Dr. Scott a Notice of Alleged Anti-Doping Rule Violations for the Possession of Pitcher Plant and AMP at Sunland Park.

2.37 On May 21, 2025, Dr. Scott responded by letter to HIWU.

2.38 In his letter, Dr. Scott asserted that he was “clearly aware that Sarapin [Pitcher Plant] is not to be administered to covered thoroughbred horses,” and that

he only used it to treat non-Covered Quarter Horses.

2.39 Likewise, Dr. Scott asserted that in “deference to HISA rules relating to treatment of covered thoroughbreds” he did not treat Covered Horses with AMP.

2.40 Rather, Dr. Scott indicated that he used AMP only in Quarter Horses “who exhibit acute exertion with rhabdomyolysis,” and that he kept AMP on his veterinary truck “for exigency treatment of quarter horses.”

2.41 On June 5, 2025, HIWU charged Dr. Scott with two Anti-Doping Rule Violations for Possession of the Banned Substances Pitcher Plant and AMP.

2.42 Dr. Scott requested arbitration, and the hearing was held on November 19-20, 2025.

F. Dr. Scott’s Asserted Compelling Justification at the Hearing

2.43 ADMC Program Rule 3214(a) prohibits possession of Banned Substances like Pitcher Plant or AMP unless a Covered Veterinarian establishes a compelling justification for the possession by a preponderance of the evidence.

2.44 At the hearing, Dr. Scott asserted that he had a compelling justification to possess Pitcher Plant and AMP because he used these two substances to treat non-Covered Quarter Horses at Sunland Park.

2.45 Specifically, Dr. Scott testified that he gave Pitcher Plant and AMP to non-Covered Horses as part of a pre-race routine that involved giving Pitcher Plant two days before a race, and AMP one day before a race, as a prophylactic measure to prevent tying-up.

2.46 Before the hearing, Dr. Scott produced redacted billing records purportedly of Quarter Horses showing the administration of Pitcher Plant and AMP to the Quarter Horses before races:

Ticket/Invoice	Doctor	Date	Description	Quantity	Amount
Horse 45					
[REDACTED]	Scott, J	2/7/25	Sarapin Inj	1	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1	
[REDACTED]	Scott, J	2/8/25	AMP 200/Adenosine Monophosphat Inj	1	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] x	1	
[REDACTED]	Pickard, J	2/9/25	Oral Electrolytes-Post Race	1	
				Subtotal: [REDACTED] Tax 8.4375% Tax: [REDACTED] Total: [REDACTED]	

2.47 Additionally, the billing records showed that Horse 47 appears to have been administered Sarapin [Pitcher Plant] and AMP twice on the same day, with no apparent justification.

2.48 The billing records did not contain any medical impressions, diagnoses, or treatment records, and Dr. Scott did not provide any additional medical records.

2.49 At the hearing, Dr. Scott produced unredacted billing records, which are under a confidentiality order.

2.50 The unredacted billing records showed 17 times (on different dates and two different invoices) when Dr. Scott administered phenylbutazone, commonly known as "Bute," to Quarter Horses on the day before a race, in violation of the New Mexico Racing Commission Rules and the Association of Racing Commissioners International Guidelines.

2.51 Dr. Scott testified that the dates of the Bute administration must be a clerical error.

G. The New Mexico Racing Commission Rules on Compounded Medications

2.52 Dr. Scott testified to his belief that the New Mexico Racing Commission permits the use of Pitcher Plant and AMP in Quarter Horses, and that other veterinarians use these substances.

2.53 He also relied on a text message from the New Mexico Racing Commission's Equine Health and Safety Advisor, Dr. Joan D'Alonzo, who told Dr. Scott after he was searched that she did not "see anything in the New Mexico rules about there being any banned substances for vets to have in their trucks," while also advising him that "you have to follow federal guidelines regarding controlled substances and compounded products."

2.54 In a letter, New Mexico Racing Commission Executive Director Ismael Trejo indicated that both compounded substances violate the New Mexico Racing Commission's Compounded Medications Rule, N.M.R.C. Rule 15.2.6.8(B)(10).

2.55 Additionally, under New Mexico Racing Commission Rule 15.2.6.9(3), veterinarians must submit to the New Mexico Racing Commission the name of any medication not listed in the Uniform Classification Guidelines, as maintained by the Association of Racing Commissioners International ("ARCI"), if they want to use it on the backside of a racetrack so that it may be submitted to the ARCI for consideration of classification.

2.56 During the hearing, Mr. Trejo testified that he did not believe there had been any enforcement of the compounding rule against veterinarians in New Mexico, primarily due to resource constraints on his office and the lack of routine vet searches by the Racing Commission.

2.57 Mr. Trejo had no record that either substance was ever officially submitted to the New Mexico Racing Commission for submission to the ARCI.

2.58 Dr. Benson credibly opined that neither Pitcher Plant nor AMP are permitted under the New Mexico Racing Commission's compounded medication rule.

2.59 New Mexico Racing Commission Rule 15.2.6.8(B)(10) permits veterinarians who possess and dispense compounded medications at racetracks to do so only if:

- a. The medication is prescribed consistent with the AMDUCA;
- b. The medication meets enumerated New Mexico Board of Pharmacy Rules; and
- c. The New Mexico Racing Commission's labelling rules are followed.

2.60 Pitcher Plant cannot meet these requirements because:

- a. Pitcher Plant cannot be prescribed consistent with the AMDUCA because it is not a new, FDA-approved medication;
- b. Pitcher Plant cannot meet the enumerated New Mexico Board of Pharmacy Rules because those rules do not allow for compounding of injectable drugs; and
- c. The New Mexico Racing Commission's drug labeling rules were not followed.

2.61 AMP cannot meet these requirements because:

- a. AMP cannot be prescribed consistent with the AMDUCA because it is not a new, FDA-approved medication;

b. AMP cannot meet the enumerated New Mexico Board of Pharmacy Rules because those rules do not allow for compounding of injectable drugs; and

c. The New Mexico Racing Commission's drug labeling rules were not followed.

2.62 Dr. Benson explained that the Pitcher Plant and AMP in Dr. Scott's possession were necessarily compounded because neither substance is FDA-approved, and neither is available in a non-compounded form in the United States.

3. THE FACTS ACCORDING TO DR. SCOTT

3.1 Dr. Jason Scott has never used or intended to use Pitcher Plant (Sarapin) or Adenosine Monophosphate (AMP) on a Covered Horse.

3.2 On February 13, 2025, Dr. Scott intended to treat eight Quarter Horses stabled at the racetrack and scheduled to race on February 14 or 15, with a routine pre-race protocol that included treatments of AMP or Sarapin, but was precluded from doing so when HIWU investigators seized the medications.

3.3 Dr. Scott developed these pre-race treatment protocols based on his clinical judgment, training, education, and experience after discussing the horses' needs with each trainer.

3.4 The use of AMP by racetrack veterinarians as a prophylactic treatment for exertional rhabdomyolysis in Quarter Horses is the uniform standard of care for veterinary treatment in New Mexico, and has been so for decades.

3.5 The use of Sarapin as a substitute for or adjunct to chemical NSAIDS for prophylactic treatment of Quarter Horses is the uniform standard of care for veterinary treatment in New Mexico, and has been so for decades.

3.6 Pitcher Plant Extract is a naturally occurring substance that cannot create a change in the normal physiological performance of a racehorse.

3.7 AMP is an endogenous substance found in every racehorse (and every living thing), and it cannot create a change in the normal physiological performance of a racehorse.

3.8 Dr. Scott genuinely and reasonably believed that both medications were permitted for use in Quarter Horses in New Mexico and could be possessed at racetracks.

3.9 Despite the widespread, open, and notorious use of compounded AMP and Sarapin at racetracks in New Mexico, and several searches of veterinarians carrying the medications, neither the NMRC nor any commissioner or agent of the NMRC took any action prior to August 1, 2025, that would imply that the possession or use of either substance was prohibited.

3.10 Dr. Scott asserts the following facts based on the testimony and the evidence presented:

- a. A billing record reflecting the dates and times of treatment. The treatment records were reviewed unredacted at the hearing to permit an inspection of the full pre-race treatment protocol for Quarter Horses and to disclose the names of the Quarter Horses treated, subject to a confidentiality agreement.
- b. His own testimony and witness statement explaining his pre-race treatment protocols and his understanding of the rules.
- c. Proof that his explanation remained consistent from the time of the search through the completion of the arbitration.
- d. The corroborating testimony of two practicing racetrack veterinarians regarding:

- i. The standard of care for pre-race treatment of Quarter Horses in training in New Mexico;
 - ii. The reasonableness of Dr. Scott's medical decision-making;
 - iii. The known uses of the medications and the historic regulatory approaches to the medications;
 - iv. The medical need to treat conditions prophylactically and the unavailability of alternatives;
 - v. The NMRC's historic tolerance regarding the use of these substances, including details of NMRC searches of veterinarians carrying these substances and the lack of subsequent regulatory action; and
 - vi. Undisputed veterinary opinions that rhabdomyolysis is a serious and preventable post-race condition that can result in death if not treated.
- e. Proof that was never contradicted, including:
- i. The undisputed fact that eight Quarter Horses stabled at Sunland Park Racetrack and under Dr. Scott's care were scheduled to race over the next two days.
 - ii. The undisputed fact that those Quarter Horses would have been treated *at the racetrack* consistent with a pre-race protocol that had been employed for at least 49 Quarter Horses in the five weeks preceding the search.
 - iii. The protocol involved the use of AMP for the Quarter Horses racing the next day, and Sarapin for the Quarter Horses racing two days out.
 - iv. Dr. Scott requested the medications back specifically so that he could treat Quarter Horses at the racetrack that day.

3.11 Undisputed Facts:

- a. HIWU presented no witness testimony, documentary evidence, or circumstantial facts tending to disprove any of Dr. Scott's

explanations or points of fact.

- b. HIWU produced no document, treatment record, admission, or testimony to contradict Dr. Scott's evidence that the possessed medications had ever been used on a Covered Horse.
- c. HIWU produced no document, treatment record, admission, or testimony to contradict the existence of Dr. Scott's treatment protocol.
- d. HIWU produced no testimony on the standard of care, community practice, or historic understanding of veterinary treatment of Quarter Horses in New Mexico.
- e. HIWU produced no witness with any experience as a licensed veterinarian in treating racehorses in training to contradict Dr. Scott's evidence of the standard of care or historic understanding regarding the use of either medication.
- f. HIWU produced no evidence that the NMRC has taken any enforcement action against a veterinarian for the possession or use of compounded substances (including AMP or Sarapin) at a racetrack.
- g. HIWU has not alleged Use, Administration, Attempted Use, Attempted Administration, or Trafficking of the medications, all of which would have required proof that the medications were used or intended for use on a Covered Horse.

3.12 HIWU attempted only (1) to dispute the *characterization* of the records as "medical records," (2) to dispute the credibility of the treatment record itself, and (3) to establish that "accidents" or "mistakes" can happen. None of these points create a genuine question of fact. Indeed, HIWU counsel acknowledged on cross-examination of Dr. Scott that it "goes without saying" that the medications were used and intended for use on Quarter Horses.

3.13 The Arbitrator accepts Dr. Scott's explanation that certain entries for phenylbutazone 24 hours before a race were clerical errors by his billing staff. Dr.

Scott explained that he knows them to be inaccurate because (1) they would have triggered positive findings, and (2) his protocol requires phenylbutazone at least 48 hours before a race.

3.14 Dr. Scott is a licensed, practicing racetrack veterinarian with over two decades of experience treating racehorses in training in New Mexico. Dr. Scott treats Covered Horses (Thoroughbreds) and Non-Covered Horses (Quarter Horses) that are stabled at New Mexico Racetracks.

3.15 Dr. Scott's only prior citation for a violation of any racing regulation was self-reported when he inadvertently administered Lasix to a horse that was not entered to race on Lasix, which resulted in a small fine.

3.16 On February 13, 2025, Dr. Scott intended to treat eight Quarter Horses stabled at the Sunland Park Racetrack in accordance with a routine pre-race treatment protocol that involved the use of Sarapin 48 hours, and AMP 24 hours, before a race.

3.17 Those horses were identified to HIWU before the hearing to be the Quarter Horses *Chicks Comanchee*, *Chimes Effort*, *Kool Kue Blue*, *Prince of Fast*, *Tren Ra*, *FS Stars and Stripes*, *Scout Over Baby*, and *Jess A Bug N D Ocean*, all of which were scheduled to race on February 14 or 15, 2025.

3.18 Dr. Scott's protocols involving Sarapin and AMP are used exclusively for Quarter Horses.

3.19 Dr. Scott has never used either medication on a Covered Horse.

3.20 Dr. Scott has never “dispensed” injectable AMP or Sarapin for use by a client.

3.21 Dr. Scott used these same protocols on at least 49 Quarter Horses who raced at Sunland Park, most of which were stabled at the racetrack. Dr. Scott communicated that use to his billing staff, who recorded that use in the billing software.

3.22 Dr. Scott has used these medications in plain view of racetrack security and regulators on Quarter Horses stabled at the racetrack for decades.

3.23 AMP is a naturally occurring substance in every living thing, and it has no capacity to change the normal physiological performance of a racehorse. Both parties’ witnesses corroborated this fact:

- a. Dr. Benson admitted that there was no evidence that AMP can create a change in the normal physiological performance of a racehorse.
- b. Dr. Benson further admitted that AMP is “obviously not” a substance that is “prohibited in a horse on a race day” for purposes of the NMRC possession rule.

3.24 Sarapin is a naturally occurring substance, and it has no capacity to change the normal physiological performance of a racehorse. Both parties’ witnesses corroborated this fact: Dr. Benson admitted that Sarapin is not a substance that can affect the performance of a racehorse.

3.25 The Association of Racing Commissioners International intentionally chose not to include Sarapin and AMP on their list of prohibited substances because they have no capacity to influence racing performance.

3.26 Both Sarapin and AMP have been in use as pre-race medications for Quarter Horses in New Mexico for over four decades, and the medications are used by virtually all racetrack veterinarians to treat Quarter Horses *at racetracks* in New Mexico.

3.27 At the time of the search, Dr. Scott's use of AMP and Sarapin was considered the standard of care for treating Quarter Horses before a race.

3.28 AMP and Sarapin are considered safe, prophylactic medications for common post-race conditions, including rhabdomyolysis. Dr. Scott prefers the use of these medications because they are naturally occurring substances that are easier on the horse's body compared to chemical NSAIDs.

3.29 Rhabdomyolysis ("tying up") is a life-threatening condition that can occur in response to intense physical exertion. Rhabdomyolysis causes the muscles to tense and become "so hard, you couldn't drive a nail into them." It is "absolutely" a life-threatening condition that causes severe pain and muscle death and can progress to organ failure.

3.30 There is no way to predict which Quarter Horses will tie up during or after a particular race. It is reasonable and consistent with the standard of care to provide routine prophylactic treatment to prevent rhabdomyolysis. AMP is commonly used in the Quarter Horse community for that purpose.

3.31 There are no FDA approved medications for the prophylactic treatment of rhabdomyolysis in racehorses or alternatives to AMP that can be administered with any efficacy prior to a race.

3.32 In 2014, Dr. Scott submitted a list of compounded medications, including AMP, to the New Mexico Racing Commission's Medication Committee for classification in 2014.

3.33 The NMRC has conducted repeated searches of veterinarians at racetracks while they were in the possession of compounded Sarapin and compounded AMP. No search resulted in any regulatory action against the veterinarian.

3.34 At no point prior to the search did the NMRC take any action consistent with any belief by the NMRC that the substances could not be used — for example, notices to veterinarians, investigators, or stewards, or regulatory actions against veterinarians.

3.35 The New Mexico Board of Veterinary Medicine has twice informed the NMRC that it has no jurisdiction to regulate which medications veterinarians carry, and that nothing in the NMRC regulations prohibit the possession or use of compounded substances.

3.36 Dr. Scott genuinely believes that licensed veterinarians in New Mexico are permitted to possess and use AMP and Sarapin at racetracks in New Mexico.

3.37 In response to this action, Dr. Scott has since stopped the use of AMP and Sarapin in pre-race treatment protocols for Quarter Horses. As a result, his horses have suffered emergency and exigent conditions during or following a race.

A. HIWU's Search and Lack of Investigation

3.38 On February 13, 2025, HIWU Investigator Brian Bennett conducted a targeted search of Dr. Jason Scott's mobile-practice vehicle at the Sunland Park Racetrack, during which he discovered four bottles, two each labeled "Pitcher Plant" and "Adenosine Monophosphate."

3.39 Mr. Bennett searched no other veterinarians at Sunland Park, although several other mobile practice vehicles were present in the area where Dr. Scott parked his vehicle. It is probable (a virtual certainty) that the six or more other veterinarians at the racetrack that day would have been carrying Pitcher Plant or Adenosine Monophosphate in their mobile practice vehicles.

3.40 Dr. Scott immediately informed Mr. Bennett that the medications were intended exclusively for use on Quarter Horses.

3.41 Dr. Scott's explanation has remained consistent and unchanged from the day of the search through the conclusion of this arbitration.

3.42 After the search, Dr. Scott treated a Quarter Horse with Lasix at the Frontera Training Center. HIWU investigator Bennett mistakenly believed that the horse was scheduled to race (which would make the treatment a violation). Dr. Scott explained that the horse was scheduled to "work," not "race."

3.43 After completing the Lasix treatment, he called NMRC Equine Medical Adviser, Dr. Joan D'Alonzo, who informed him that the NMRC had no rules prohibiting the possession of substances by veterinarians.

3.44 Within hours, Dr. Scott confronted Mr. Bennett at the Sunland Park Test Barn and requested he return the medication specifically so that he could

render treatment to non-Covered Quarter Horses stabled at the racetrack.

3.45 Mr. Bennett refused to return the medications, thereby preventing the treatments from occurring.

3.46 HIWU investigator Bennett admitted that he conducted no investigation whatsoever into the circumstances of Dr. Scott's use of the medications and had no evidence that Dr. Scott ever used either medication on a Covered Horse.

3.47 Dr. Benson admitted that the identity of compounded substances can be proved only through testing. Even so, HIWU never confirmed the identity of the seized medications through testing.

3.48 HIWU never confirmed, or attempted to confirm, the contents of the bottles with the manufacturer.

3.49 The labels on the seized medications incorporate by reference an "accompanying insert." As a matter of routine, Dr. Scott discarded the package insert when he discarded the boxes in which the Sarapin or AMP were shipped to him.

3.50 To this day, HIWU has never asked Dr. Scott to produce the package insert.

3.51 HIWU did not raise an issue with labelling in either its "EAD Notice" or the "EAD Charge Letter." The first time HIWU raised a labelling issue was in early August 2025 when HIWU submitted its pre-hearing brief.

3.52 By that time, Dr. Scott had stopped using both medications and, thus,

did not have the insert available.

3.53 HIWU interviewed no knowledgeable witnesses, including trainers, staff, owners, or practicing racetrack veterinarians who would be familiar with the use of AMP or Sarapin in New Mexico or in Dr. Scott's practice.

3.54 HIWU's "investigation" was comprised solely of an ex parte phone call with Ismael Trejo. Mr. Trejo originally took a position of non-involvement in this matter, but he changed that position at HIWU's request because he and HIWU have a "partnership."

3.55 Mr. Trejo's opinion was drafted by HIWU prosecutor Allison Farrell. Making only typographical edits, he signed a letter drafted by HIWU attorney Allison Farrell taking the position that AMP and Sarapin were prohibited in New Mexico.

3.56 By Mr. Trejo's admission, he was only "somewhat familiar" with NMRC regulations.

3.57 Mr. Trejo did not seek Dr. Scott's input adopting HIWU's opinion as to the applicability of NMRC regulations to compounded AMP or Sarapin.

3.58 The NMRC has taken no action against veterinarians — including Dr. Scott — for the possession or use of compounded, injectable Sarapin or AMP, a fact Mr. Trejo confirmed.

B. HISA's Lack of Guidance for Possession for a Non-Covered Practice at a Racetrack

3.59 The ADMC Protocol provides no specific guidance for the Possession

of an allegedly Banned Substance intended for use on non-Covered Quarter Horses stabled at a Covered Racetrack.

3.60 Prior to the Search on February 13, 2025, HIWU's former Chief Scientist, Dr. Mary Scollay, had issued the following guidance for veterinarians:

“ . . . [I]f the veterinarians are practicing also on a population of [N]on-Covered Horses, they're taking care of quarter horses or they've got a country practice part-time they are able to possess a Banned Substance because we don't have control over those horses, and so to the extent that they want to use bisphosphonates on a Non-Covered Horse, we can't ban them from possessing them... [W]e can't penalize people for something that we don't have control over so, you know, let's just say because we have the ability to investigate, if the story starts to get a little weird or a little extreme, you're going to get more than a raised eyebrow. But at the end of the day if someone is practicing out in the country, we don't have the authority to control the medications they administer or carry for Non-Covered Horses . . . [T]he regulation addresses if there is a justification for them to be in Possession of a Banned Substance and certainly a practice that incorporates Non-Cov ered horses.”

HIWU v. Shell, JAMS Case No. 1501000653, ¶ 2.23.

3.61 Prior to the Search on February 13, 2025, HISA's Regulatory Veterinarian Handbook described the ADMC Protocol as a “horse-centric approach to regulation” with “a set of rules that ***follow the Covered Horse***,” as opposed to a set of rules that applies “to people and horses when they arrive[] at the racetrack grounds.”

3.62 Prior to the Search on February 13, 2025, neither HISA nor HIWU had issued any formal or informal guidance identifying specific actions a racetrack veterinarian should take to comply with the Possession Rule if a Non-Covered Practice at the racetrack includes the use of Banned Substances.

3.63 To this day, neither HISA nor HIWU has issued any formal or informal guidance identifying specific actions a racetrack veterinarian should take to comply with the Possession Rule if a Non-Covered Practice at the racetrack includes the use of Banned Substances.

3.64 In July 2025, Dr. Scott was considering purchasing Sarapin for use in Quarter Horses. Realizing that such act would constitute “Possession,” he asked for guidance from HIWU on the specific steps regarding how to conduct himself. HIWU responded only that he would need to have a “compelling justification” for possessing the substance.

C. Scope and Credibility of Witness Testimony

3.65 HIWU offered the following witnesses to give legal opinions:

- a. HIWU offered the testimony of Ismael Trejo, Executive Director of the NMRC, to speak to his understanding of NMRC regulations.
- b. HIWU offered the testimony of Dr. Dionne Benson to speak to her understanding of (1) the legal meaning of laws, including the ADMC Protocol, AMDUCA, GFI#256, federal and state compounding regulations, federal and state labelling regulations, NMRC’s “possession” regulations, federal and state “pharmacy” regulations, and New Mexico’s legal requirements for “medical records”; and (2) whether Dr. Scott’s conduct complied with these laws.

3.66 A purported expert's legal opinion is not evidence and cannot be considered as evidence of the correct meaning or the correct application of the law.

3.67 Mr. Trejo's letter, though submitted on NMRC letterhead, was not the product of an agency adjudication, rulemaking, or agency declaration under NMAC 15.2.1.10I.

3.68 Mr. Trejo's testimony is entitled to no weight.

3.69 Mr. Trejo demonstrated a complete lack of awareness about pertinent facts.

3.70 Mr. Trejo ultimately testified to no factual issue in dispute, and he expressly disclaimed any ability to do so.

3.71 The Arbitrator finds that Dr. Benson did not testify as an independent expert. Dr. Benson sat with HIWU's attorneys through the entire hearing, passed notes to HIWU attorneys during examinations, and otherwise participated with HIWU as part of their trial team throughout the course of the hearing.

3.72 Dr. Benson openly admitted that she formed her opinions based on incomplete facts and chose not to review relevant evidence, such as Dr. Scott's detailed witness statement explaining his protocol.

3.73 Dr. Benson offered no testimony regarding the standard of care for the pre-race treatment of Quarter Horses in New Mexico.

3.74 Dr. Benson agreed with Dr. Scott's experts on the following points:

- a. Dr. Benson admitted that “compounding” a substance does not make a substance a “prohibited substance” as that term is defined by New Mexico Racing Commission regulations.
- b. Dr. Benson admitted that there was no evidence that AMP can create a change in the normal physiological performance of a racehorse.
- c. She further admitted that AMP is “obviously not” a substance that is “prohibited in a horse on a race day” for purposes of the possession rule.
- d. Dr. Benson admitted that Sarapin is not a substance that can affect the performance of a racehorse.
- e. Dr. Benson agreed that at the time of the search in this case, AMP was a substance that could legally be compounded under GFI #256. Dr. Benson agreed that the AMP formulation Dr. Scott allegedly possessed has regulatory approval in Australia.

3.75 Dr. Benson expressly withdrew the following opinions after cross-examination:

- a. Dr. Benson conceded that the treatment records were reliable evidence.
- b. Dr. Benson conceded that she could discern from the billing records that AMP and Sarapin were used as part of a routine, pre-race treatment.
- c. She withdrew her opinion that “dantrolene” could be an alternative to AMP after she admitted that doing so would be an anti-doping violation.
- d. She also withdrew her opinion that the substances violated GFI #256 after she conceded that she could not form an opinion on that matter without reviewing the entire label. “I can’t make that determination without seeing the rest of the label.”.)]

3.76 Dr. Benson admitted that her opinions were not based on any

personal or professional experience or training; ***her only basis for interpreting and applying the rules was that she “just read them.”***

3.77 HIWU failed to demonstrate that Dr. Dionne Benson has the necessary training, education, or experience to offer any opinions about the “regulatory framework, terminology, purposes, and background” regarding any of the laws for which she was called to testify. *Tang Cap. Partners, LP v. BRC Inc.*, 757 F. Supp. 3d 363, 392 (S.D.N.Y. 2024).

- a. HIWU called Dr. Benson to testify about medical alternatives. Yet at no point when she was licensed by any racing commission has Dr. Benson ever been an attending veterinarian for a racehorse. In her entire career as a licensed veterinarian, she has never been asked to develop and implement a prophylactic pre-race treatment protocol for a racehorse in training. She has never provided prophylactic treatment to a racehorse.
- b. HIWU called Dr. Benson to testify to whether billing records qualify as “medical records” under the New Mexico Veterinary Practice Act. Yet Dr. Benson has never had a mobile practice and, thus, has no experience generating records in a mobile practice. She has also never billed a client for veterinary treatment and thus, has never generated a billing record.
- c. HIWU called Dr. Benson to testify about regulations applicable to compounded medications. Dr. Benson has never compounded a medication from bulk substances or labeled a medication compounded from bulk substances. Dr. Benson has never been retained by anyone to give legal advice about compliance with FDA legal requirements. Benson has never given input to the FDA prior to finalizing GFI #256. Dr. Benson has never been a member of any committee that gave input to the FDA prior to finalizing GFI #256. Her only experience in the field is comprised of authoring two, single-page opinion pieces that were neither peer reviewed nor represented as guidance documents.

3.78 Dr. Scott produced opinion evidence that not a single practicing racetrack veterinarian would consult Dr. Benson for advice regarding how to treat a racehorse in training. Dr. Fenger testified that she would not seek Dr. Benson's advice regarding how to treat a racehorse in training. She knows of no practicing racetrack veterinarian who would ever seek Dr. Benson's advice regarding how to treat a racehorse in training. Dr. Pickard testified similarly.

3.79 Dr. Fenger recounted an event in which she "came very close to submitting a complaint to the Vet Medical Board" against Dr. Benson. She recounted that Dr. Benson, while working as a regulatory veterinarian, and without consulting the trainer, consulting the horse's nearby attending veterinarian, doing a physical examination, or taking a history to determine potential allergies to the medication, administered "emergency" detomidine to the horse intravenously because it was a hot day, all without any valid client-patient relationship. The medication is contraindicated in the absence of seizures (there were none) because it reduces the horse's ability to dissipate heat, so its use put the horse in unnecessary danger.

3.80 Dr. Scott's experts, Dr. Clara Fenger and Dr. Tony Pickard, both have decades of experience as practicing racetrack veterinarians and must conduct themselves, on a day-to-day basis, in a manner that comports with the laws discussed in this case.

3.81 Dr. Fenger's qualifications are:

- a. Dr. Fenger is a founding member of the North American Association of Racetrack Veterinarians; is a member of the American Academy of Veterinary Pharmacology and Therapeutics; is a diplomate of the American College of Veterinary Medicine, the AVMA, the KVMA and

the KAEP; and is a board member of the Equine Health and Welfare Alliance.

- b. Dr. Fenger has been retained by Lisa Lazarus, now the CEO of HISA, as an expert on two separate cases.
- c. Dr. Fenger has published approximately 45 peer-reviewed scientific articles and chapters in veterinary textbooks about the medical treatment of active racehorses. These articles have appeared in the Equine Veterinary Journal, the Journal of Comparative Exercise Physiology, and others.
- d. Unlike Dr. Benson, Dr. Fenger has extensive experience with compounded medications and with ensuring compliance with regulations governing compounded medications.
- e. Unlike Dr. Benson, Dr. Fenger provided input to the FDA for the development of GFI #256 in her personal capacity and as a member of committees for industry organizations that put together recommendations for the FDA.
- f. Unlike Dr. Benson, Dr. Fenger has been received as an expert in state and federal court in criminal cases and veterinary malpractice cases, and in administrative cases before racing commissions.
- g. Unlike Dr. Benson, Dr. Fenger has published several scientific papers on rhabdomyolysis.

3.82 The Arbitrator finds Dr. Fenger’s testimony to be credible. Of note, every single one of the facts HIWU claimed demonstrated Dr. Fenger’s bias was equally true — if not more true — for Dr. Benson.

3.83 Dr. Tony Pickard has been a practicing, mobile racetrack veterinarian in New Mexico for over four decades. He explained that the community of racetrack veterinarians in New Mexico was very small, with only a handful of practicing veterinarians. He is familiar with the standard of care for treating racehorses in training.

3.84 Dr. Pickard testified that AMP and Sarapin have been used in Quarter Horses in New Mexico since before he started practicing over forty years ago. Dr. Pickard explained that over 99% of racetrack veterinarians in New Mexico would have these medications on their truck for Quarter Horses, and that if the Possession Rule was applied to possession of these medications for Quarter Horses, there would be no practicing racetrack veterinarians in New Mexico and, consequently, no racing.

3.85 Dr. Pickard testified that both medications are considered by practicing veterinarians to be safe, prophylactic medications for common conditions that occur during racing, including rhabdomyolysis. Their use before a race is considered the standard of care in New Mexico. Dr. Pickard testified that their use was well known to the New Mexico Racing Commission and has never been considered illegal.

3.86 Dr. Pickard testified that he has been searched numerous times by NMRC investigators while in possession of these medications at the racetrack, and NMRC investigators never took the position that AMP or Sarapin were illegal to possess. Mr. Trejo's letter was the first time anyone at the NMRC took the position that the medications were illegal.

3.87 Dr. Pickard explained that HIWU's reading of NMRC rules was nonsensical because it would ban every injectable compounded medication, regardless whether it contained a prohibited substance. That reading would, for example, ban the use of diluted vitamins and oral electrolytes, which are compounded injectable substances that are routinely administered by every veterinarian to horses in every barn, including at racetracks, and have never been

considered “prohibited substances.”

3.88 He explained that the rule is more reasonably understood as articulating the requirements for “dispensing” non-injectable substances (like an oral medication or ointment) to trainers for later use on a racehorse. The rule does not address dispensing *injectable* substances because, Dr. Pickard explained, only a veterinarian can administer an injectable substance to a racehorse (i.e., a trainer cannot possess an injectable substance). Dr. Pickard ultimately concluded that the rule most likely clarified the procedure for dispensing non-injectable substances to non-veterinarians, rather than prohibited the use of all compounded injectable substances.

4. EXHIBITS

HIWU submitted 16 exhibits which were admitted into evidence.

Dr. Scott submitted 25 exhibits which were also admitted into evidence

5. WITNESSES

HIWU called the following witnesses who testified concerning the facts and the evidence: Brian Bennett, Ismael Trejo and Dr. Dionne Benson.

Dr. Scott called the following witnesses who testified concerning the facts and the evidence: Dr. Clara Fenger, Dr. Tony Piccard and Dr. Jason Scott.

6. ANALYSIS

The facts in this case were thoroughly presented by both parties. On the morning of February 13, 2025, HIWU Investigators Brian Bennett, Lane Ruddick and Brett Smith conducted a search of Dr. Scott’s veterinary truck at Sunland Park, New Mexico. The search began at approximately 7:30 a.m., as HIWU Investigators did

not want to delay veterinarians like Dr. Scott on a race day. On this day, only Covered Horses were racing at Sunland Park.

Dr. Scott told Investigator Brian Bennett (“Bennett”) that he had to give Lasix to a horse that was racing that day. When Bennett mentioned that no horse was racing until 12:20 p.m. (and thus the earliest Lasix could be given was 8:20 a.m.), Dr. Scott stated that the horse needing Lasix was housed at the Frontera Training Center. Bennett became suspicious of this reasoning, because Lasix administration for a horse racing at Sunland Park is not permitted off-track at Frontera. Investigator Bennett assured Dr. Scott that the search should only take 15 – 20 minutes.

Although there were at least seven other vans parked along the fence and located in New Mexico or Texas, only one van was stopped and searched -- the one belonging to Dr. Scott.

During the search of Dr. Scott’s truck, Investigator Bennett found two bottles clearly labeled as Pitcher Plant, also known as Sarapin, and placed them in evidence as BB-1 and BB-2.

- a. BB-1 was found in the top left drawer of Dr. Scott’s veterinary cabinet.
- b. BB-2 was found inside a blue plastic tote, which also included hypodermic needles and other medications.

Dr. Scott admitted to possessing and using the Pitcher Plant, but stated to Investigator Bennett that he only used it on non-Covered Quarter Horses for the treatment of “sacroiliac issues.”

Investigator Bennett also found two bottles of Adenosine Monophosphate, also known as AMP, in the top middle drawer of Dr. Scott’s veterinary cabinet and placed them in evidence as BB-3 and BB-4. Each AMP bottle stated: “Each ml.

contains: 200 mg of Adenosine-5-Monophosphoric acid and Benzyl Alcohol 1.5% as preservative.” Dr. Scott admitted to possessing and using the AMP, but he told Investigator Bennett that he used AMP only on Quarter Horses for treatment of issues associated with tying-up.

Dr. Scott had previously sent a written request to HIWU for an interpretation of the Rules and received a courteous reply. He had also testified as an expert witness in a case where the HIWA sought to, and did, prove previous violations of the code by a trainer who trained Thoroughbreds and Quarter Horses in Texas and New Mexico.

Dr. Benson, HIWU’s expert on veterinary medicine regulations, testified that Pitcher Plant and AMP must be controlled by possession rules because neither substance can be successfully identified in post-race anti-doping testing.

Pitcher Plant is explicitly banned at all times under ADMC Program Rule 4117. Thus, Dr. Scott had two prohibited substances at a Covered Racetrack on a day covered Thoroughbreds were running.

He also had inconsistencies in his billing records which he said were mistakes made by his administrative staff. He testified that he had never knowingly violated any rules of the HISA and had committed no known violations of the New Mexico Racing Commission (“NMRC”) rules and regulations.

The evidence also shows that Dr. Scott’s van was selectively identified for a search by Investigator Bennett out of the seven or eight vans parked along the fence in either New Mexico or Texas that day. The evidence further demonstrates that Dr. Scott had requested information from HISA’s general counsel’s office concerning what substances were covered in the treatment of Quarter Horses. He testified he

had previously served as an expert witness adverse to HIWU in at least one case involving a New Mexico veterinarian.

In his more than two decades as a veterinarian treating Thoroughbreds and Quarter Horses, Dr. Scott had only one reported violation, and that was a violation he self-reported. He did not use Pitcher Plant or AMP on any Thoroughbreds on the day of the inspection, and he stated that he only intended to use the substances on Quarter Horses.

He followed the standard practices of the veterinarians in New Mexico at that time, and it was unclear, at best, if the NMRC was following the rules set out for enforcement at HIWU. In fact, the commissioner of the NMRC was somewhat confused about what was covered before the investigation of Dr. Scott's truck.

Dr. Scott admitted to having both AMP and Pitcher Plant in his van and was generally cooperative throughout the investigation. He turned over his AMP and Pitcher Plant bottles when requested to do so.

Dr. Scott is a widely recognized veterinarian who routinely treats horses trained by noted, reputable trainers in New Mexico and Texas, and by many national and international trainers as well. He is recognized as a leader in veterinarian organizations and has served on boards and committees at the local and national levels as well.

The parties elicited both general and technical expertise from numerous witnesses and produced exhibits, including correspondence, emails, scientific and technical information from experts in the field of medication and treatment of racehorses, test results, and various reports and selections of literature related to this matter. They also cited relevant cases and statutes.

The pleadings and briefs submitted and reviewed demonstrated outstanding advocacy by the parties' respective counsel in their Pre-Hearing Briefs and Rebuttal Briefs; Findings of Fact and Conclusions of Law; Post-Hearing and Rebuttal Briefs, and in their detailed analysis of the law and appropriate standards of conduct. The parties agreed that the site of the arbitration was Sunland Park, New Mexico, to avoid any jurisdictional disputes. Each and every fact in evidence, and the cases cited, are analyzed and discussed in their extensive briefing and analysis.

The basic facts are not in dispute, but the basis for the selection of Dr. Scott's van by Investigator Bennett remains questionable.

FINAL AWARD

Therefore, based upon everything previously discussed and presented in this matter, I hereby Award and Rule as to Dr. Scott:

A period of ineligibility of eighteen (18) months from the date of the initial inspection (February 13, 2025) for possession of two prohibited substances. The 18 month period of ineligibility will expire on August 13, 2026.

A fine of \$25,000 and a payment of \$5,000 in adjudication costs based upon all of the facts and evidence presented.

No other remedies are appropriate.

Dated: February 12, 2026



Hugh E. Hackney, Arbitrator