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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)
DERRICK PARRAM,) Matter No.
Appellant.) D9424
-----)

Via Zoom

The above-entitled matter came on for remote hearing, pursuant to notice, at 12:30 p.m.

BEFORE THE HONORABLE D. MICHAEL CHAPPELL
Chief Administrative Law Judge

Reported by: Sally Jo Quade, RPR

Derrick Parram

2
3/1/2024

1 APPEARANCES:

2

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Derrick Parram

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FEDERAL TRADE COMMISSION

I N D E X

WITNESS:

EXAMINATION:

Derrick Antonio Parram

By Mr. Hackerman

36

By Judge Chappell

43

EXHIBITS

DESCRIPTION

FOR ID

None

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

2 - - - - -

3 JUDGE CHAPPELL: Let's go on the record. Good
4 afternoon. I am Judge Chappell. I am the chief
5 Administrative Law Judge, ALJ, at the Federal Trade
6 Commission, assigned to Docket 9424, which I am calling
7 to order right now. This is the hearing on the
8 application for review filed by Derrick Parram or
9 Parram?

10 THE WITNESS: Parram.

11 JUDGE CHAPPELL: Thank you. Derrick Parram, the
12 Appellant. This hearing is being conducted using
13 videoconferencing and is available for the public to
14 listen to through an audio line. The FTC's vendor Open
15 Exchange will be managing the logistics of this informal
16 hearing.

17 Mr. Parram, I need you to cut your video while
18 I'm doing this statement. All I see is Mr. Parram.

19 THE WITNESS: What do you need me to do?

20 JUDGE CHAPPELL: Somehow turn your video off.
21 You're the only thing on my screen right now. Not that
22 I mind that, but it's distracting.

23 THE WITNESS: Mute?

24 JUDGE CHAPPELL: Do you see the little video, it
25 should be the lower left. If you click that, it should

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1 turn your video off.

2 MR. HACKERMAN: Excuse me, Your Honor, Mr. Parram
3 is in an adjacent office, I can go in there and assist
4 him. He's got it. Okay.

5 THE WITNESS: That's it.

6 JUDGE CHAPPELL: Okay, thank you, we're good.

7 Will the Open Exchange representative please
8 introduce yourself.

9 DAVID: This is David with Open Exchange.

10 JUDGE CHAPPELL: Thank you. This hearing is
11 being transcribed by a court reporter. Would the court
12 reporter state your name for the record.

13 MADAM REPORTER: Good afternoon, Your Honor.
14 Sally Jo Quade with the For The Record, Inc.

15 JUDGE CHAPPELL: Thank you. I will now take the
16 appearances of the parties. I will have the parties
17 identify themselves and identify anyone else with you in
18 your virtual hearing room. I will start with the
19 Appellant.

20 MR. HACKERMAN: Good afternoon, Your Honor. My
21 name is Richard Hackerman, I am counsel for Derrick
22 Parram. Mr. Parram is in an adjacent room in my office.

23 JUDGE CHAPPELL: And for the Authority?

24 MS. PRICE: On behalf of the Horseracing
25 Integrity and Safety Authority, Rebecca Price. With me

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1 today is Marc Guilfoil and Sam Reinhardt. Your Honor,
2 counsel Brian Beauman is expected to join later. He was
3 held up in another hearing this morning.

4 JUDGE CHAPPELL: And you're duly authorized and
5 prepared to go forward with the case?

6 MS. PRICE: Yes, Your Honor.

7 JUDGE CHAPPELL: Thank you. I will also note for
8 the record our office received a request from Louis
9 Ulman, U L M A N, to participate in the hearing. As
10 Ulman and his partner are not parties to this proceeding
11 and will not be called as witnesses, that request was
12 denied. Also in this hearing are other staff from the
13 Office of Administrative Law Judges.

14 Let me go over some logistics for the virtual
15 hearing. You have been sent frequently asked questions
16 on how this virtual hearing will be conducted. I won't
17 waste our time going over all of those, but I want to go
18 over a couple of points from those directives. Only
19 persons who are authorized to view the hearing can do so
20 via the Zoom link that was sent to the parties.

21 If you are not one of the designated counsel who
22 is speaking today, you must use have your audio muted
23 and your video turned off at all times. If you are
24 counsel who are speaking today, you must have your video
25 on at all times and your audio on only when you are

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1 speaking. So, Ms. Price, your video is on. Thank you.

2 David, are you there?

3 DAVID: Yes, Your Honor.

4 JUDGE CHAPPELL: I need you to instruct the
5 parties how they can -- how I can see the thumbnail, but
6 the video is not filling my screen. Is there a way to
7 do that?

8 DAVID: In your top right corner, do you have a
9 thing that says "View"? If you change that to gallery,
10 you should be able to see the entire gallery of whoever
11 has their camera on.

12 JUDGE CHAPPELL: I understand that. That's not
13 the point. I could normally see the people in a
14 thumbnail, even though their video is not on. If it's
15 not going to work this way, that's fine. I'll go ahead.

16 DAVID: You can turn on nonvideo participants and
17 it might show thumbnails of their names.

18 JUDGE CHAPPELL: The only option I have is to
19 hide nonvideo participants. All right, never mind,
20 let's get back to the hearing.

21 Appellant requested an evidentiary hearing before
22 an ALJ to contest facts and the interpretation of law
23 that formed the basis for the imposition of a sanction
24 imposed upon him and upheld by the Board of the
25 Horseracing Integrity and Safety Authority, which, for

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1 convenience, I will refer to as HISA, H I S A. In
2 response to the order issued January 9th, 2024,
3 directing Appellant to identify the facts he seeks to
4 contest, and the supplemental evidence he intends to
5 submit at the requested evidentiary hearing, Appellant
6 asserted he needs to testify as to the prejudice of the
7 delays in the proceedings below and having multiple
8 hearings before the Stewards.

9 The only witness in this hearing is Derrick
10 Parram. Pursuant to Section 1.146(c)(4)(B) of the
11 procedures for final civil sanctions imposed under the
12 HISA, only the Appellant may conduct direct examination.
13 The Authority is limited to cross examination of the
14 Appellant's witness. Cross examination shall be limited
15 to the scope of the direct examination. Impeachment is
16 within the scope of direct exam. Impeachment includes
17 inquiring into the witness' ability to observe and
18 recollect bias, prejudice, inconsistent statements,
19 and/or implausibility of the direct testimony.

20 Regarding exhibits, Appellant has not identified
21 any additional exhibits he wishes to introduce. The
22 exhibits in the appeal book filed by HISA on February
23 20th are in the record of this proceeding.

24 Each side may make an opening statement of no
25 more than 15 minutes each. Do you wish to make an

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1 opening statement, Appellant?

2 MR. HACKERMAN: Yes, Your Honor.

3 JUDGE CHAPPELL: And for the Authority?

4 MS. PRICE: Yes, Your Honor.

5 JUDGE CHAPPELL: Are there any questions before
6 we proceed?

7 (No response.)

8 JUDGE CHAPPELL: Hearing none, I will take
9 opening statement from the Appellant. You have 15
10 minutes. Go ahead. You will need to turn on your video
11 and your audio.

12 MR. HACKERMAN: Can you hear me, Your Honor?

13 JUDGE CHAPPELL: I can now, yes.

14 MR. HACKERMAN: Okay. Very well. Good morning,
15 Your Honor. Good afternoon, Your Honor. Again, my name
16 is Richard Hackerman, I am counsel for the Appellant,
17 Derrick Parram.

18 JUDGE CHAPPELL: You are in Kentucky?

19 MR. HACKERMAN: I am in Maryland.

20 JUDGE CHAPPELL: Oh, you're in Maryland. It is
21 afternoon. All right.

22 MR. HACKERMAN: Yes. Okay. We have taken this
23 appeal, Your Honor, to the ruling of the Maryland
24 Stewards and which was affirmed by HISA that voided the
25 claim of a horse named Girls Love Me. By way of

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1 background, Your Honor, and as part of the stipulation
2 which is part of the record, Your Honor, on December
3 9th, Mr. Parram raced Girls Love Me in race three at
4 Laurel Park. The horse raced for a claiming price of
5 \$12,500.

6 Louis Ulman and Walter Vieser claimed the horse
7 on that day for \$12,500. The horse ran back for his new
8 owners at Laurel Park on December 31, 2022, and was
9 claimed for the new owners and suffered an injury later,
10 and it's in the stipulation, Your Honor, the horse was
11 euthanized.

12 JUDGE CHAPPELL: For those who are online, et
13 cetera, who don't know some of the terms. Why don't you
14 explain to us what a claim race and claiming, what those
15 are.

16 MR. HACKERMAN: A claiming race, Your Honor, is a
17 race where horses are advertised to be purchased and
18 sold. And the purpose of claiming races is to try to
19 keep the level of competition relatively even so that
20 horses are roughly the same caliber running the same
21 type of race. So in a particular race, in this
22 instance, horses were entered for \$12,500 claiming
23 price. Anyone with a Maryland owner's license was free
24 to claim a horse for \$12,500 in that race.

25 JUDGE CHAPPELL: So this is like a show race,

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1 every horse on the track is for sale?

2 MR. HACKERMAN: Correct, Your Honor.

3 JUDGE CHAPPELL: All right. Go ahead.

4 MR. HACKERMAN: I've never heard it classified as
5 a show race, but the purpose of claiming historically is
6 to keep the level of competition relatively competitive.

7 JUDGE CHAPPELL: By show race I mean you're
8 showing anyone who wants to view the race, these horses
9 are available?

10 MR. HACKERMAN: Yes. That would be true, Your
11 Honor.

12 JUDGE CHAPPELL: All right.

13 MR. HACKERMAN: Okay. So, again, the horse was
14 injured and subsequently passed away. After --

15 JUDGE CHAPPELL: Did you say the horse passed
16 away?

17 MR. HACKERMAN: Yes, Your Honor, and it's in the
18 stipulation, the horse passed away, Your Honor, on
19 January 29th, 2023, from complications of post-surgery
20 colic.

21 JUDGE CHAPPELL: Right, I understand things might
22 be stipulated, but I like for everyone on the phone
23 line, et cetera, to understand what we're talking about.

24 MR. HACKERMAN: So after the horse --

25 JUDGE CHAPPELL: Any question I ask you, that

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1 doesn't count against your 15 minutes, okay?

2 MR. HACKERMAN: That's fine. After the horse was
3 injured, and I think there was testimony -- no one was
4 sworn, I think, at the hearing in front of HISA, but
5 there was discussion that subsequent -- that the new
6 owners did some medical care, but ultimately the horse
7 passed away subsequent to the surgery.

8 On January 6th, Your Honor, the Maryland Stewards
9 received a certificate of analysis which indicated that
10 the horse, Girls Love Me, on December 9th, tested
11 positive for substances known as dexamethasone and
12 trichlormethiazide from the December 9th, 2022 race.
13 Those substances were purportedly unlawful in Maryland
14 on the date of the race.

15 The Stewards had a hearing, two hearings, on
16 December 9th. The first hearing, Your Honor, they found
17 that -- well, several things happened. One, they asked
18 Mr. Parram if he would have a right to a split sample,
19 and I will say for those in attendance, when a horse
20 tests positive under both Maryland law and HISA law, a
21 person has a right to have a second test of the alleged
22 positive. The person has to pay for the positive, but
23 they have a right to it.

24 Mr. Parram will testify that, you know, in a few
25 minutes, he will testify that he was advised by Stewards

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1 prior to the hearing that there would be no fine, that
2 if the horse -- that ultimately -- that the purse would
3 be redistributed and that a second hearing would take
4 place where he would receive a point under the point
5 system.

6 At no point, Your Honor, at the first hearing,
7 prior to Mr. Parram's waiver, was he advised that a
8 third hearing would be scheduled and at that hearing he
9 would have to return -- he would have to return the
10 purse. He would have to return the claim prize.

11 So, anyway, at the first hearing, the purse was
12 redistributed. Mr. Parram, as a result of the December
13 9th race, his horse ran second, Your Honor, he
14 received -- for running second, he received \$5,900. As
15 a result of the purse distribution, Your Honor, he
16 received nothing.

17 JUDGE CHAPPELL: His horse being Girls Love Me?

18 MR. HACKERMAN: Correct, Your Honor.

19 JUDGE CHAPPELL: And when you say there was an
20 analysis, blood or urine, the test? The positive
21 result?

22 MR. HACKERMAN: I'm looking, Your Honor. Blood
23 sample, Your Honor.

24 JUDGE CHAPPELL: Thank you.

25 MR. HACKERMAN: Later on, Your Honor, and it's

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1 part of the stipulation, the horse passed away on
2 January 29th, 2023. On February 1, 2023, the trainer
3 for -- Dale Capuano is the trainer for the new owners,
4 Messrs. Ulman and Vieser, contacted the Stewards to
5 protest the claim on Girls Love Me, and again, that was
6 two days after the horse passed away.

7 JUDGE CHAPPELL: Do we know when the horse was
8 injured that resulted in the surgery that resulted in
9 the ultimate demise of Girls Love Me?

10 MR. HACKERMAN: December 31, 2022.

11 JUDGE CHAPPELL: And when was the race we're
12 talking about? The race in question?

13 MR. HACKERMAN: December 9th, 2022.

14 JUDGE CHAPPELL: Okay, so this injury occurred
15 after the race in question?

16 MR. HACKERMAN: Right, the new injury occurred
17 for the new owners of the horse.

18 JUDGE CHAPPELL: Thank you.

19 MR. HACKERMAN: Not Mr. Parram.

20 JUDGE CHAPPELL: Thank you.

21 MR. HACKERMAN: Okay. Two days after the horse
22 passes, Mr. Capuano, the trainer Capuano, contacts the
23 Stewards to protest the claim. There is a third hearing
24 scheduled. Mr. Parram is not advised to a right to a
25 split sample. It's unclear if a split sample even

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1 existed anymore, because Mr. Parram waived his right at
2 the first hearing. But in any event, he was not advised
3 of a right to a split sample, and the Stewards conducted
4 a third hearing wherein they, at that hearing, void the
5 claim and ordered Mr. Parram to repurchase -- to void
6 the claim, which in essence orders Mr. Parram to
7 repurchase a deceased horse and refund the \$12,500
8 purchase price.

9 By way of background, Your Honor, one of the new
10 owners of the horse, Mr. Ulman, was a former chairman
11 and member of the Maryland Racing Commission. But
12 nonetheless, and I don't know if you've looked at the
13 brief that was filed down before HISA, but the new
14 owners under Maryland law, Your Honor, had two days in
15 which to lodge an objection to the claim. Whether or
16 not that two days commenced on the day of the December
17 9th race or the early January positive, that I think is
18 unclear, but whatever, it's not two days after their
19 horse died, and that's exactly what happened.

20 So, basically, after everything negative goes
21 down, the new owners contact the Stewards and void the
22 claim and the Stewards -- and the Stewards go along with
23 this and they void the claim at a February 9th, 2023
24 hearing. And from that we appealed, the matter went
25 before HISA, and HISA ruled in favor of the Stewards.

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1 Now, there's two main issues, sort of subissues
2 on the second issue, but I think the first issue, Your
3 Honor, is whether or not the void claim rule -- whether
4 or not the void claim rule, as it is written, should
5 result in the -- should result in the avoiding of the
6 claim. The rule in question, Your Honor, refers to a
7 prohibited substance, and a prohibited substance, under
8 the HISA rules, those rules, 3000, 4000, 5000 and 6000,
9 the HISA Prohibited Substance List did not go into
10 effect until last May. So approximately --

11 JUDGE CHAPPELL: Sorry, you were garbled there.
12 Can you repeat what you just said?

13 MR. HACKERMAN: I'm sorry, the HISA drug rules,
14 3000, 4000, 5000, 6000, which the void claim rule
15 2262(c)(5) refers to, did not go into effect, Your
16 Honor, until six months after the running of the race.

17 JUDGE CHAPPELL: Is that why you said purportedly
18 banned substance earlier in your opening?

19 MR. HACKERMAN: Yes.

20 JUDGE CHAPPELL: All right.

21 MR. HACKERMAN: Okay. So the HISA drug rules,
22 which are 2262(c)(5) referred to didn't go into effect
23 until six months after the race.

24 Now, when you're reading the HISA rules,
25 "Prohibited Substance" is capitalized. It has a defined

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1 meaning under the HISA rules, and it refers to the 3000,
2 4000, 5000, 6000 rules. It does not refer to Maryland
3 law. It simply does not.

4 The rules are very clear that those rules did not
5 go into effect and they cannot be applied retroactively.
6 What the Commission -- what the HISA Board found was --
7 and if you look at their decision, Your Honor, they
8 basically found that they can supplement -- this is page
9 4 of the opinion, "while state laws are preempted with
10 respect to matters on which the FTC has approved and
11 promulgated a final rule, state law will continue to
12 regulate matters on which the FTC has not yet approved
13 and promulgated a final rule."

14 Now, there are -- Maryland has a void claim rule,
15 Your Honor, and the void claim rule does not encompass a
16 horse testing positive for a prohibited substance.
17 Maryland has drug rules. Those drug rules, Your Honor,
18 do not have a -- do not contain a penalty, Your Honor,
19 for voiding a claim. The drug rules in Maryland are
20 COMAR Sections 09.10.03.04. They talk about
21 redistributing the purse and referring a matter to --
22 you know, to the Racing Commission, and it refers
23 generally to other provisions as far as fines go, and
24 whatnot, but there's nothing in the Maryland drug rules
25 which provide for voiding a claim if a horse tests

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1 positive.

2 And then Maryland also has COMAR Section
3 09.10.01.07, Your Honor, those rules which talk about
4 when a claim can be voided. They basically require a
5 horse to die on the racetrack during the running of the
6 race, suffer an injury which ultimately results -- you
7 know, suffering injury which requires the euthanasia of
8 a horse, but they're talking about the running of the
9 race where the horse tests positive. And then at the
10 time, there was another provision if the horse was a
11 vanguard. So they are referring to the December 9th
12 race, Your Honor, and none of those situations occurred.

13 So we have the federal rule, which is a safety
14 rule, which clearly refers to the HISA drug rules, which
15 were not in effect. And we have the Maryland rules, but
16 what the authorities attempted to do is conflate those
17 two rules to end up with a favorable outcome with
18 respect to their -- to, in this case, Mr. Ulman and Mr.
19 Veiser.

20 The rules don't -- there is nothing in the rules
21 which says you can use -- that I have seen -- use state
22 law to interpret the HISA rules. The HISA rules are
23 clear. The prohibited substances are clearly defined
24 in, you know, 2000, 3000, 4000 -- I mean 3000, 4000,
25 5000, 6000, those are the rules that were not in effect,

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1 but the HISA rules specifically refers to the drug
2 rules. And the definitions, Your Honor, of a prohibited
3 substance, clearly refers to the rules in sections 3000
4 and 4000 of HISA.

5 So, Your Honor, the rule which authorizes the
6 void claim under HISA, simply, that part of the rule was
7 not in effect at the time of this race. I think that's
8 clear and I think it's that simple.

9 And then there's the other issue, Your Honor, of
10 the delays which ultimately resulted in this -- what I
11 would call an unfair outcome. It took over a month,
12 Your Honor, for the drug result to be reported to the
13 Maryland Stewards. In that time, Your Honor -- there
14 was a claim in that time, Your Honor, the new owner was
15 given an opportunity to -- and ran the horse -- and ran
16 the horse during that time.

17 The new owner assumed the risk, Your Honor, just
18 like all owners, of what would happen to a horse running
19 in a race. There is nothing -- if there was a dispute
20 about the ownership of the horse, Your Honor, certainly
21 that's something that could have been brought to the
22 attention of the Stewards, but there was nothing that
23 was brought to the attention of the Stewards prior to
24 the running of the race.

25 There was a delay in having what I'm going to

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1 call the third hearing. We have a third hearing, Your
2 Honor, almost -- I'd say it's approximately -- I'll tell
3 you exactly, the third hearing was conducted on February
4 4th, so almost a month after the drug positive, and
5 three and a half weeks after Mr. Parram waived his right
6 to a split sample, they have a third hearing, Your
7 Honor, in which case they void the claim.

8 Clearly, I think it makes sense if someone knew
9 that in addition to losing a purse or a fine, if
10 somebody knows there are additional consequences that
11 may result from a no -- you know, from a voluntary
12 waiver, clearly, you know, most of us would rethink
13 that -- you know, would rethink it. It's hard to know
14 what someone would have done in a certain circumstance,
15 Your Honor, but I think in this case, it's reasonable to
16 believe, and Mr. Parram will testify, if I knew that all
17 these additional sanctions were available to me, I would
18 not have waived the right to the split sample.

19 Yeah, that brings us, Your Honor, to issues of
20 estoppel and waiver and res judicata. After the first
21 hearings, which occurred almost a month earlier, there's
22 no provision for having even a second hearing, but let
23 alone a third hearing. Once a matter is -- once a
24 matter is litigated, all issues, all violations, all
25 potential penalties, all things that could happen to an

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1 individual, all arguments, are supposed to be made at
2 the first hearing. If the Stewards missed it, then they
3 missed it.

4 Because the protest was made, Your Honor, they
5 had the hearing -- as I understand it -- you know, as I
6 understand it, Your Honor, under Maryland law. They
7 used Maryland laws, drug prohibitions, Your Honor, to
8 supplement this HISA rule, but what the Commission has
9 done is take part of Maryland drug rules, take part of
10 the HISA void claim rule, put it together and come up
11 with this -- what I consider an unfair result.

12 During the time that all the delay with the --
13 particularly with the initial drug screening.

14 JUDGE CHAPPELL: You said the Commission, did you
15 mean the Authority?

16 MR. HACKERMAN: Well, originally this was all
17 done by the Maryland Racing Commission. They're the
18 ones -- you know, I think particularly at that time,
19 because there was no drug rule in effect. The drug
20 issues were monitored by the state at that time.

21 JUDGE CHAPPELL: So when you have stated
22 Commission in your opening, you're referring to the
23 Maryland Racing Commission?

24 MR. HACKERMAN: Yes.

25 JUDGE CHAPPELL: Not the Federal Trade

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1 Commission?

2 MR. HACKERMAN: Correct. The Maryland Racing
3 Commission, you know, at that time, Your Honor, oversaw
4 the drug rules. You know, again, the HISA drug rules,
5 or HISA, however you pronounce it, were not in effect.
6 So, Your Honor, there was the delay in having the drug
7 analysis which permitted the new owners to run the horse
8 and get injured. There was the delay in making the
9 claim. There was the delay in making the objection. It
10 was clearly outside the time limit under Maryland law,
11 and there was certainly the delay in having the void
12 claim hearing, you know, weeks and weeks after the
13 initial hearing. I think the doctrines of res judicata
14 and collateral estoppel are all present there.

15 I will just say as an aside, I have been to
16 hundreds of hearings in my life, there's hundreds of
17 things that I wish I had said or not said at those
18 hearings, or done or didn't do at a hearing. I don't
19 believe the Maryland Racing Commission or Stewards have
20 an opportunity to redo because they simply forgot
21 something at the first hearing, if it was even
22 appropriate.

23 So, you know, in short, Your Honor, I don't
24 believe that HISA has the right to simply combine two
25 different rules to get an outcome which I think, in this

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1 instance, and in particular this instance, because of
2 the horse passing away, and that the new owners had an
3 opportunity to -- the new owners assumed the risk of
4 running at their own peril, I think in this instance, I
5 think legally their claim was flawed, and I think
6 equitably, they should not be permitted to bring it
7 under these circumstances with regard to, you know, a
8 third hearing with the delays that ultimately were very
9 prejudicial to Mr. Parram.

10 JUDGE CHAPPELL: All right. Thank you.

11 MR. HACKERMAN: Thank you.

12 JUDGE CHAPPELL: And do we have an opening from
13 the authority?

14 MS. PRICE: Yes, Your Honor.

15 JUDGE CHAPPELL: Is this referred to as HISA or
16 HISA?

17 MS. PRICE: I think it depends on how you say it.
18 We say HISA.

19 JUDGE CHAPPELL: Okay.

20 MS. PRICE: My accent I think leads me to say
21 HISA, a little lazy Z sound, but --

22 JUDGE CHAPPELL: All right. Proceed when ready.

23 MS. PRICE: Thank you, Your Honor. It is HISA's
24 position that the Laurel Park Stewards properly enforced
25 the HISA void claim rule by voiding the claim of Girls

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1 Love Me based on the horse's positive test for
2 prohibited substances.

3 Your Honor, I know Mr. Hackerman went through the
4 timeline and background of events, but just for sake of
5 clarity, I would like to run through that again, just to
6 make sure we're all on the same page.

7 On December 9th, 2022, Mr. Parram raced Girls
8 Love Me in a claiming race at Laurel Park, and as we've
9 discussed, a claiming race is a race in which an owner
10 enters a horse, expecting to trade title of that horse
11 to a new owner in exchange for a claiming price or fee
12 that they receive.

13 As was custom in Maryland and other racing
14 jurisdictions, and now is an industry standard under
15 HISA's regulations, Maryland officials collected a blood
16 sample from the horse after the race to test for the
17 presence of any prohibited substances.

18 JUDGE CHAPPELL: Let me ask you about the
19 claiming race.

20 MS. PRICE: Yes.

21 JUDGE CHAPPELL: You talked about there's a
22 price. Does a prospective buyer have a list with the
23 name of the horses and what the price is at that time,
24 or is the price something negotiated when an offer is
25 made after a race?

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1 MS. PRICE: It would all be set before the race
2 begins.

3 JUDGE CHAPPELL: So a prospective buyer would see
4 Girls Love Me and know this is the price I would pay?

5 MS. PRICE: Correct.

6 JUDGE CHAPPELL: Before the race?

7 MS. PRICE: Correct.

8 JUDGE CHAPPELL: Thank you.

9 MS. PRICE: On January 6th, as Mr. Hackerman
10 said, the blood sample results came back from the lab
11 and indicated the presence of dexamethasone and
12 trichlormethiazide in Girls Love Me's system at the time
13 of the December 9th race. And I would just note that
14 this is a typical timeline for state regulators to get
15 lab results back on these blood samples.

16 JUDGE CHAPPELL: Are these drugs that were
17 positive, do they fall into a category of something?
18 Why are they prohibited? Are they performance
19 enhancers, or do you know?

20 MS. PRICE: Frankly, that is out of my realm,
21 Your Honor, but they are on the Maryland Drug Schedule
22 that was in effect at the time of the race and they are
23 also now on the HISA drug schedule that's in effect.

24 JUDGE CHAPPELL: Banned substances, banned for
25 some reason?

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1 MS. PRICE: Correct.

2 JUDGE CHAPPELL: That's not an issue, I'm just
3 wondering for the benefit of the crowd.

4 MS. PRICE: Okay. So two days later, after the
5 results were received on January 8th, the Laurel Park
6 Stewards held a hearing with Mr. Parram to adjudicate
7 the alleged Maryland State Racing Commission violation.
8 So at the time of the race, which was the presence of
9 the two medications or drugs in the horse's system.

10 The Laurel Park Stewards issued a ruling, a
11 Maryland ruling, disqualifying Girls Love Me from the
12 December 9th race.

13 So in the mean time, while all this is going on,
14 and before the blood sample results come back, the
15 claiming owners, Mr. Ulman and Mr. Veiser, raced Girls
16 Love Me in a second race, or a later race at Laurel Park
17 on December 31st, 2022. During that race, the horse
18 sustained an injury. Girls Love Me underwent knee
19 surgery after it suffered its injury while in the care
20 of Mr. Ulman and Mr. Veiser and ultimately died later in
21 January 2023.

22 As Mr. Hackerman noted, Dale Capuano, trainer for
23 Mr. Ulman and Mr. Veiser, contacted the Laurel Park
24 Stewards to alert them that the claim should be voided
25 because the positive test for prohibited substance

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1 violated the HISA rule on void claims. So the Laurel
2 Park Stewards conducted a hearing to adjudicate.

3 JUDGE CHAPPELL: Hold on a second. Hold on a
4 second. Is it your position that the Laurel Park
5 Stewards were alerted in a timely manner or was it
6 within or without the time allowed under the rules?

7 MS. PRICE: Yeah. Mr. Hackerman -- or, Your
8 Honor, at the time, and currently, HISA does not have a
9 time limit on when interested parties or other people,
10 the media, whoever, can point out potential violations
11 that happened. There are proposals that are waiting for
12 the FTC to approve them for a 72-hour period to offer a
13 protest, as the industry calls it, but at the time,
14 there was no limitation for when "protests" could be
15 made for HISA violations.

16 JUDGE CHAPPELL: Let's talk about general
17 jurisdiction. This proceeding with the Stewards, the
18 hearing, et cetera, is everything being conducted by and
19 under the rules of the Maryland Racing Commission or
20 HISA? What's the deal?

21 MS. PRICE: Yeah, Your Honor, HISA has an
22 agreement with racing commissions across the country
23 that participate in HISA that the Stewards are able to
24 enforce both state racing commission rules and HISA
25 regulations. Since they are kind of the ones boots on

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1 the ground, if you will, they are the ones who are
2 watching races, they are -- you know, I know we had a
3 hearing on counting strikes. They're reviewing that.
4 They're the front line, essentially.

5 So based on those agreements, the Stewards sort
6 of act as agents of HISA to enforce both state
7 commission rules that haven't been preempted by HISA,
8 but also HISA regulations that happen on the ground.

9 JUDGE CHAPPELL: All right.

10 MS. PRICE: So the Stewards, acting in that
11 agency capacity, conducted a hearing on the HISA alleged
12 violation of the void claim rule on February 4th, and
13 ultimately determined that the positive test for the
14 prohibited substances in Girls Love Me's system
15 constituted a HISA violation, which resulted in voiding
16 the claim.

17 So just to clarify, the HISA void claim rule took
18 effect on July 1st, 2022, as part of the Racetrack
19 Safety Program. As Mr. Hackerman noted, there's sort of
20 two components of the HISA regulatory scheme. There's
21 the racetrack safety, and then there is the Antidoping
22 and Medication Control Program, which colloquially is
23 called the ADMC program, and that took effect later in
24 2023. So at the time this all happened, the void claim
25 rule, as part of the Racetrack Safety Program, was in

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1 effect.

2 So the void claim rule, in relevant part,
3 2262(c)(5) makes it clear that a claim shall be voided
4 if the horse has a positive test for a prohibited
5 substance.

6 JUDGE CHAPPELL: Let's back up a second. Would
7 you address the issue that was raised by Appellant on
8 whether these substances which were indicated positive
9 in a blood test, whether and when they actually were
10 banned?

11 MS. PRICE: Well, Your Honor, I don't know when
12 the Maryland State Racing Drug Schedule was promulgated,
13 but it's the Authority's position that until the ADMC
14 program went into effect in July of 2023, HISA had not
15 prohibited substances in the field of horseracing and
16 thoroughbred regulation. So until the ADMC program
17 would have gone into effect and HISA's own list of
18 prohibited substances would have gone into effect, the
19 Maryland Prohibited Substance and Drug Schedules would
20 have been in effect and that would have been the basis
21 for prohibited substances for the purpose of the void
22 claim rule.

23 JUDGE CHAPPELL: And your position is that under
24 Maryland law, the substances that were indicated as
25 positive were, in fact, banned at the time of the race?

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1 MS. PRICE: Yes, Your Honor.

2 JUDGE CHAPPELL: All right.

3 MS. PRICE: So --

4 JUDGE CHAPPELL: But under Maryland law, not
5 HISA?

6 MS. PRICE: Correct. Correct. Because the HISA
7 Drug Schedule had yet to be approved by the FTC until
8 later in 2023.

9 So essentially, it's our position that the
10 Maryland regulations served as sort of a stopgap to
11 constitute -- define what would constitute a prohibited
12 substance for application of the void claim rule. And
13 without that stopgap measure, the void claim rule for
14 prohibited substances essentially would have been a rule
15 without any effect.

16 Mr. Parram today asserts that the delay between
17 hearings on the Maryland-specific prohibited substances
18 violation and the HISA violation were to legal or other
19 harm against him, and this just is not true. The Laurel
20 Park Stewards adjudicated two distinct matters. The
21 first is the positive test for dexamethasone and
22 trichlormethiazide under Maryland regulation, and the
23 second is a HISA violation that would require voiding a
24 claim for the positive test for prohibited substance.

25 This is sort of akin to how federal and state law

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1 claims can arise from the same nexus of events. So the
2 Maryland regulatory violation and the HISA regulatory
3 violation arose in tandem from the positive test from
4 the December 9th race.

5 Despite arising from the same race --

6 JUDGE CHAPPELL: Was it made clear to the
7 Appellant, when a hearing was set, what the hearing was
8 for? What the violation was?

9 MS. PRICE: Yes. The Appellant would have had
10 notice of the violation prior to the hearing, when he
11 was called in for the hearing.

12 JUDGE CHAPPELL: And just so I'm following your
13 statement, opening statement, are you saying there
14 weren't, in fact, three hearings on the same matter,
15 there were two different matters, and so there weren't
16 three hearings on the same matter?

17 MS. PRICE: Correct. We would say that these
18 violations are distinct as one arose under Maryland
19 regulation and one arose under HISA regulation.

20 JUDGE CHAPPELL: So how many hearings were held
21 under the Maryland regulation?

22 MS. PRICE: I believe there were two. The first
23 was the hearing on the disqualification based on the
24 positive test, and then Maryland has a procedure where
25 they issue a point system for trainers who have these

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1 positive drug tests, and so I believe that was a second
2 hearing.

3 JUDGE CHAPPELL: And so the third hearing was the
4 HISA violation?

5 MS. PRICE: Was the HISA violation or the void
6 claim.

7 JUDGE CHAPPELL: All right. Go ahead.

8 MS. PRICE: So like I said, the first hearing the
9 Laurel Park Stewards held was to adjudicate on Maryland
10 violation of a drug regulation, that action brought
11 under Maryland state regulation resulting in the
12 disqualification of the horse from the race is wholly
13 distinct from the subsequent ruling that came with the
14 HISA violation. The second hearing that ultimately
15 voided the claim of Girls Love Me enforced a HISA
16 regulation voiding claims for positive tests for
17 prohibited substances.

18 As these are separate matters, any time gap
19 between the adjudication of the Maryland violation or
20 the HISA violation is simply irrelevant. The Stewards
21 applied the applicable HISA regulation on February 9th.

22 So, in conclusion, Your Honor, part of the
23 business of racing thoroughbreds is assuming risk. The
24 risk of being beaten in races by faster horses, risk of
25 injury to horses or riders, or risk of financial loss

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1 from a ton of different potential sources, and owners
2 and trainers assume that risk every day. HISA exists to
3 protect the welfare of horses and racing participants
4 and preserve the industry's integrity.

5 HISA mitigates foreseeable sources of risk to
6 horses and people by safeguarding against causes of
7 harm, and that's what the void claim rule here is doing.
8 Voiding claims based on a positive test for prohibited
9 substances not only prevent owners and trainers from
10 trading horses that are inappropriately medicated or
11 doped, but also protect that horse's future safety and
12 disincentivizes owners and trainers from using illicit
13 substances.

14 And I'll admit, Your Honor, this is an
15 unfortunate situation that Girls Love Me has passed
16 away. Voiding the claim for the horse does mean that
17 Mr. Parram will return the claim price to Mr. Ulman and
18 Mr. Veiser, and unfortunately, he will not take title
19 back to the horse as it has passed away, but this is an
20 unfortunate and inherent part of participating in
21 horseracing and the risk you have assumed.

22 All HISA participants have agreed by
23 participating in covered horse races and registering
24 with HISA, the agency, to abide by HISA regulations, and
25 the void claim rule is part of the Racetrack Safety

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1 Program, was one of those regulations that Mr. Parram
2 agreed to follow. The unfortunate set of circumstances
3 does not change the way that HISA regulations are
4 enforced.

5 The timing of the void claim ruling is irrelevant
6 at this point. We're talking about a matter of weeks,
7 but it really is never too late for Stewards to get the
8 ruling correct. The Stewards acted appropriately and
9 under their obligation that they shall void claims based
10 on positive tests for prohibited substances, and failure
11 to enforce the void claim would have been the Stewards'
12 failure to act as agents of HISA and enforce HISA
13 regulations.

14 And Mr. Parram submitted to these regulations
15 when he participated in covered horseracing under HISA's
16 jurisdiction. So it is our claim or our position, Your
17 Honor, that the Laurel Park Stewards' ruling voiding the
18 claim of Girls Love Me is valid and the HISA Board's
19 opinion should be upheld.

20 JUDGE CHAPPELL: All right. Thank you.

21 Mr. Hackerman, call your witness.

22 MS. PRICE: Your Honor, Bryan Beaman has joined
23 and is it okay if he just hops on the screen with me
24 when we are back for cross?

25 JUDGE CHAPPELL: Absolutely.

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1 MR. BEAUMAN: Good afternoon, Judge Chappell,
2 nice to see you again.

3 JUDGE CHAPPELL: Good afternoon, sir.

4 MR. HACKERMAN: Your Honor, I would call Derrick
5 Parram as a witness on his own behalf.

6 JUDGE CHAPPELL: All right. Would the court
7 reporter swear the witness, please.

8 Whereupon--

9 DERRICK PARRAM
10 a witness, called for examination, having been first
11 duly sworn, was examined and testified as follows:

12 JUDGE CHAPPELL: All right, go ahead, Mr.
13 Hackerman.

14 DIRECT EXAMINATION

15 BY MR. HACKERMAN:

16 Q. Mr. Parram, would you please state your full
17 name.

18 A. Derrick Antonio Parram.

19 Q. What is your address, sir?

20 A. 9314 Cherry Hill Road, Apartment 115, College
21 Park, Maryland.

22 Q. And how old are you?

23 A. Sixty-five.

24 Q. Okay. And what is your occupation?

25 A. Racehorse trainer.

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1 Q. When you say racehorse, you are referring to
2 thoroughbreds?

3 A. Yes, thoroughbreds.

4 Q. And how long have you been a thoroughbred
5 racehorse trainer?

6 A. Twenty-three years.

7 Q. And how long have you been a trainer in Maryland?

8 A. Since 2013.

9 Q. Okay. And where are you from, Mr. Parram?

10 A. Jamaica.

11 Q. And I understand you trained in Jamaica. Is that
12 correct?

13 A. Yes. Yes.

14 Q. When did you --

15 JUDGE CHAPPELL: What city in Jamaica, sir?

16 THE WITNESS: St. Patrick.

17 JUDGE CHAPPELL: Thank you. Someone needs to
18 turn their phone off there. Go ahead.

19 BY MR. HACKERMAN:

20 Q. Mr. Parram, when did you begin training
21 racehorses in Jamaica?

22 A. 2001.

23 Q. Okay. Now, some trainers have public stables
24 where you train for others, others train for yourself.

25 What do you do, Mr. Parram?

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1 A. I train mostly for myself.

2 Q. Okay. And how many horses have you trained in
3 your career?

4 A. I'd say roughly 25.

5 Q. And what is your disciplinary record with the
6 Maryland Racing Commission, HISA, Jamaica, have you had
7 any violations of law, to the best of your knowledge?

8 A. No. This would be the first one.

9 Q. And on December 9th, 2022, you raised Girls Love
10 Me at Laurel Park. Do you recall that?

11 A. Yes.

12 Q. Okay. And who was the owner of Girls Love Me?

13 A. I am.

14 Q. Okay. And how did the horse run that day?

15 A. He finished second.

16 Q. And how much was the purse that you were to
17 receive?

18 A. For the second, total, \$6,500.

19 Q. Was the horse claimed that day?

20 A. Yes.

21 Q. And what was the claim price for the horse?

22 A. \$12,500.

23 JUDGE CHAPPELL: Mr. Parram, excuse me, you said
24 you were a trainer, but apparently you are also an
25 owner. Is that right?

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1 THE WITNESS: Yes, former trainer.

2 JUDGE CHAPPELL: Do you own a lot of horses?

3 THE WITNESS: Most of those I train, I own.

4 JUDGE CHAPPELL: All right, thank you.

5 THE WITNESS: Yes.

6 BY MR. HACKERMAN:

7 Q. Who claimed your horse?

8 A. Mr. Ulman.

9 Q. Okay. And a Mr. Veiser as well?

10 A. Yeah, they are partners, yes.

11 Q. Do you know Mr. Ulman?

12 A. He's -- I know him being on the Maryland Racing
13 Commission.

14 Q. Okay. Do you know how long he's been on the
15 Maryland Racing Commission?

16 A. No, I don't quite remember how long.

17 Q. And in early January of 2023, you were notified
18 of a drug positive for dexamethasone and
19 trichlormethiazide. Is that correct?

20 A. Yes.

21 Q. And you were advised that there would be two
22 hearings before the Maryland Stewards on January 8,
23 2023?

24 A. It would be two hearings. I was called in and
25 told there's a positive for the dex --

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1 JUDGE CHAPPELL: If you can hear me, hold on, I
2 cannot hear anything.

3 MR. HACKERMAN: Your Honor, I hear Mr. --

4 JUDGE CHAPPELL: I am not sure what's wrong. My
5 audio has gone off.

6 Mr. Hackerman, raise your hand if you can hear
7 me, and say something.

8 MR. HACKERMAN: Your Honor?

9 JUDGE CHAPPELL: No, I do not hear you.

10 MR. HACKERMAN: Okay.

11 JUDGE CHAPPELL: It was working fine and just
12 stopped.

13 (Discussion off the record.)

14 JUDGE CHAPPELL: The last thing I heard was he
15 was answering a question and said it would be two
16 hearings. Let me find the question. I'm trying to
17 scroll up here on realtime. I've got two computers
18 going.

19 Let's start with this question, Mr. Parram, you
20 can answer, I'm going to repeat the question from your
21 attorney. And you were advised that there would be two
22 hearings for the Maryland Stewards on January 8th, 2023?

23 THE WITNESS: I was not advised there would be
24 two hearings. I was called in to say that the horse had
25 a positive and there would be a redistribution of the

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1 purse. After that happened, I was called in again --

2 BY MR. HACKERMAN:

3 Q. Well, let's talk about the first hearing, Mr.
4 Parram. Were you told before the first hearing what the
5 consequences may be by the Stewards?

6 A. That there would be a redistribution of the
7 purse.

8 Q. Were you told that before the hearing or after
9 the hearing, if you recall?

10 A. During the hearing.

11 Q. During the hearing?

12 A. Yes.

13 Q. Did you receive -- at the start of the hearing,
14 were you advised that you had a right to a split sample?

15 A. I was.

16 Q. Okay. And did you waive your right to the split
17 sample at that time?

18 A. Yes.

19 Q. Okay. And were you advised at that hearing of
20 the potential consequences for the -- you know, for the
21 positive?

22 A. No, just that there would be a redistribution of
23 the purse.

24 Q. Were you advised that the claim -- were you
25 advised that the claim may be voided later on?

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1 A. The claim in the sense of returning the money?

2 Q. Yes.

3 A. No.

4 Q. Okay. And so, you know, at that hearing, you
5 were advised you were going to have to forfeit the
6 \$5,900 that you received for running second in the
7 December 9th race. Is that correct?

8 A. Yes. Yes.

9 Q. Okay.

10 Were you advised that there would be another
11 hearing later on?

12 A. No.

13 Q. After the first hearing?

14 A. No.

15 Q. When you went to the third hearing -- there was a
16 third hearing on February 4th, 2023. Is that correct?

17 A. Yes.

18 Q. Were you advised at that hearing that you had a
19 right to a split sample?

20 A. It did not come up.

21 Q. Okay. Let me ask you this, Mr. Parram: If you
22 had known that -- if you had known that the claim was
23 ultimately going to be -- had the potential to be
24 voided, would you have waived your right to the split
25 sample at the first hearing?

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1 A. No, I would not have waived it.

2 Q. And would you have requested the split sample
3 then?

4 A. Say that again.

5 Q. You would have requested the split sample at the
6 first hearing?

7 A. Yes.

8 Q. If you had known these other consequences were
9 available?

10 A. Yes, if I had known that it would come to this, I
11 would have requested it.

12 MR. HACKERMAN: I have nothing more for Mr.
13 Parram, Your Honor.

14 EXAMINATION

15 BY JUDGE CHAPPELL:

16 Q. Mr. Parram, I have a few questions before I open
17 it up to the Authority's attorney. How were you
18 notified of these hearings?

19 A. I was -- the intercom. I was called over
20 intercom to see the Stewards.

21 Q. So this is pretty informal?

22 A. I would say informal, yes.

23 Q. Nothing in writing? You don't get a letter or
24 certified mail or anything saying there is going to be a
25 hearing?

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1 A. I got that after. After there was a hearing, I
2 got the letter.

3 Q. So the letter you got later was telling you about
4 the hearing that had already taken place?

5 A. Yes.

6 Q. Okay. Did you get notice of any other hearings
7 after the first one, in writing or otherwise?

8 A. In writing, I got in the mail, but the mail came
9 late, but I did went to see them a second time in
10 regards to fine and points to the license. There was --
11 and there was no points or any fine.

12 Q. Now, you say they called you on the intercom, so
13 you were working at the track or in the area?

14 A. Yes, I take care of my own horses.

15 Q. And what's the intercom? It's a box on the wall
16 in your stall or your shed or what do you call it?

17 A. No, it's open for all to hear.

18 Q. Okay, so everyone at the track heard, Mr. Parram,
19 report to the -- whatever?

20 A. To the Stewards.

21 Q. Okay. Did you know what it was for when you were
22 summoned?

23 A. No.

24 Q. But you were advised once you got there?

25 A. Yes.

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1 Q. All right. Now, you told me you got two notices
2 in the mail and there was a third hearing. Is that
3 right?

4 A. Yes.

5 Q. Did you get any notice for that hearing?

6 A. I'm trying -- I'm trying to see if it was a
7 written notice.

8 Q. But you did attend all three, correct?

9 A. Yes.

10 Q. Okay. So somehow you found out about the third
11 hearing, obviously, if you attended.

12 A. Yes.

13 Q. Okay. And I didn't ask this, on the second
14 hearing, was that also over the public address intercom,
15 or how did you find out about the second one, if you got
16 the written notice later?

17 A. I'm trying to remember. I don't want to say
18 wrong.

19 Q. If you don't remember, that's fine. If you do,
20 let us know.

21 A. Yeah, I don't -- I don't quite remember.

22 Q. Okay. And same for the third, you don't quite
23 remember how you found out about the third hearing?

24 A. Right. But I know the second one was just
25 telling me that the positive could result in a fine and

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1 points, but being I have never been there before, I
2 wouldn't be given any points or fine.

3 Q. On the third one, did you get a letter before or
4 after the third hearing, a notice?

5 A. I think I got a letter before, for the third
6 hearing.

7 JUDGE CHAPPELL: Okay. That's all I have.

8 Mr. Hackerman, do you have any followup based on
9 my questions, of your client?

10 MR. HACKERMAN: No, Your Honor.

11 JUDGE CHAPPELL: All right, does the Authority
12 have any cross?

13 MS. PRICE: Your Honor, we have nothing for this
14 witness.

15 JUDGE CHAPPELL: All right. Mr. Parram, thank
16 you for your time. You are excused.

17 THE WITNESS: Thank you very much.

18 JUDGE CHAPPELL: Okay, that's all the witnesses
19 we have. I'm going to now go over the rules for
20 post-hearing briefs. Under the rules, within 30 days of
21 the hearing's conclusion, each party will concurrently
22 file proposed findings of fact, conclusions of law, and
23 a proposed order. Reply briefs may be filed by each
24 party within 10 days of the initial filings.

25 I find reply briefs to be extremely helpful.

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1 Usually they eliminate the need for closing statements,
2 so I require the reply briefs to be filed.

3 Let me go over the deadlines. This is March 1st,
4 so our trial is over today. Your post-trial filings, if
5 my math is correct, are due on April 2. April 2nd.
6 Your reply filings are due on April 12th.

7 Let me talk about closing statements. Under the
8 rules, the ALJ hears closing statements from the parties
9 within 10 days of the reply briefs, if, and I repeat if,
10 either party in its reply brief requests the opportunity
11 to make a closing statement. And I'll let you know that
12 in my over 20 years on the Bench, I have never found
13 closing statements to be useful. So I'm strongly -- I'm
14 letting you know that I discourage you from requesting
15 closing statements.

16 Does either side have any questions before we
17 conclude our hearing? From the Appellant?

18 MR. HACKERMAN: No, Your Honor.

19 JUDGE CHAPPELL: That was garbled. Was that a
20 no?

21 MR. HACKERMAN: No, Your Honor.

22 JUDGE CHAPPELL: Thank you. And from the
23 Authority?

24 MS. PRICE: No, Your Honor.

25 JUDGE CHAPPELL: All right. Thank you all for

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Derrick Parram

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1 your time. Hearing nothing further, we are adjourned.

2 (Whereupon, at 1:42 p.m., the hearing was

3 adjourned.)

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Derrick Parram

3/1/2024

1 C E R T I F I C A T I O N O F R E P O R T E R

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3 DOCKET/FILE NUMBER: D9424

4 CASE TITLE: In Re: DERRICK PARRAM

5 DATE: FRIDAY, MARCH 1, 2024

6

7 I HEREBY CERTIFY that the transcript contained
8 herein is a full and accurate transcript of the notes
9 taken by me at the hearing on the above cause before the
10 FEDERAL TRADE COMMISSION to the best of my knowledge and
11 belief.

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DATED:

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SALLY JO QUADE, RPR

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