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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9424**

ADMINISTRATIVE LAW JUDGE: D. MICHAEL CHAPPELL

IN THE MATTER OF:

DERRICK PARRAM

APPELLANT

**AUTHORITY'S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW AND
PROPOSED ORDER**

The Horseracing Integrity and Safety Authority, by counsel, pursuant to the briefing schedule provided by the Administrative Law Judge after the March 1, 2024, evidentiary hearing held in this matter, submits the following Proposed Findings of Fact and Conclusions of Law and Proposed Order.

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CERTIFICATE OF SERVICE

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of this Proposed Findings of Fact and Conclusions of Law and Proposed Order is being served on April 2, 2024, via Administrative E-File System and by emailing a copy to:

Hon. D. Michael Chappell
Chief Administrative Law Judge
Office of Administrative Law Judges
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A copy of this submission is also being provided via email as a courtesy to the claiming owners of GIRLS LOVE ME:

Louis Ulman, ulmanlouis@gmail.com;
Walter Vieser II, walt.vieser@redarchsolutions.com

/s/ Bryan Beauman
Enforcement Counsel

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PROPOSED FINDINGS OF FACT

1. The Horseracing Integrity and Safety Authority (the “Authority”) maintains its headquarters at 401 West Main Street, Suite 222, Lexington, Kentucky 40507.

2. The Authority was created by the Horseracing Integrity and Safety Act, 15 USC 57A § 3051 *et seq.*

3. The Authority exists to develop and implement a racetrack safety program for Covered Horses, Covered Persons, and Covered Horseraces.

4. Laurel Park is a Racetrack, pursuant to the Authority’s Rules, where Covered Horseraces are conducted.

5. Laurel Park maintains its racing operations at Route 198 & Racetrack Road, Laurel, Maryland 20725.

6. GIRLS LOVE ME is a Covered Horse, pursuant to the Authority’s Rules.

7. Derrick Parram was the owner and trainer of the Covered Horse GIRLS LOVE ME.¹

8. On December 9, 2022, Parram raced GIRLS LOVE ME in a claiming race at Laurel Park.²

9. Louis J. Ulman and Walter Vieser, II claimed the horse by taking title to GIRLS LOVE ME at the end of the claiming race in exchange for the claiming price of \$12,500.³

¹ Appeal Book, Tab 5, Stipulation with Rulings at 20.

² *Id.*

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10. After the race on December 9, 2022, Laurel Park racing officials collected a blood sample from GIRLS LOVE ME to test for the presence of prohibited substances in the horse's blood at the time of the race.⁴

11. On January 6, 2023, the lab returned the blood sample results that indicated the presence of Dexamethasone and Trichlormethiazide in GIRLS LOVE ME's blood at the time of the December 9, 2022, race.⁵

12. Dexamethasone is an FDA equine-approved medication used as a rapid adrenal glucocorticoid and/or anti-inflammatory agent.⁶ Trichlormethiazide is a discontinued medication, and no FDA approved product is commercially available. The discontinued trichlormethiazide veterinary product, which contained dexamethasone, was used in horses as supportive therapy for the management of inflammatory conditions like arthritic lameness and other stress conditions that required corticosteroids.⁷

13. The Laurel Park stewards conducted a hearing with Parram on January 8, 2023, regarding the laboratory results. Pursuant to COMAR 09.10.03.04C, the stewards issued a ruling finding Parram violated Maryland state racing regulation because GIRLS LOVE ME had Dexamethasone and Trichlormethiazide, prohibited substances, in his system at the time of the race on

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Horseracing Integrity and Welfare Unit, *HISA Controlled & Banned Substances Lookup*, <https://www.hiwu.org/substances?terms=dexamethasone>.

⁷ Horseracing Integrity and Welfare Unit, *HISA Controlled & Banned Substances Lookup*, <https://www.hiwu.org/substances?terms=trichlormethiazide>.

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December 9, 2022. The ruling disqualified GIRLS LOVE ME from the December 9, 2022, race and redistributed the purse, pursuant to Maryland regulation.⁸

14. Parram received notice of the January 8, 2023, hearing via mail and over the racetrack intercom system that the Laurel Park stewards use to notify horseracing participants at the track of meetings and hearings, and he waived his right to have legal representation present at the hearing.⁹

15. Prior to the return of the lab results and the adjudication of the Maryland Racing Commission violation, new owners Ulman and Vieser raced GIRLS LOVE ME at Laurel Park on December 31, 2022.¹⁰

16. GIRLS LOVE ME suffered a leg injury during the race on December 31, 2022.¹¹

17. GIRLS LOVE ME underwent surgery on his knee and died from colic on January 20, 2023, while in the care of owners Ulman and Vieser.¹²

18. On February 1, 2023, Dale Capuano, the trainer employed by Ulman and Vieser, contacted the Laurel Park stewards to protest the stewards' failure to void the claim pursuant to HISA Rule 2262¹³ (the "Void Claim Rule").¹⁴

19. The Authority did not have a rule prohibiting or limiting the time in which a third party could contact the Authority or its agent to make a protest regarding a perceived violation.¹⁵

⁸ *Id.* at 20-21.

⁹ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 24-25.

¹⁰ Appeal Book, Tab 5, Stipulation with Rulings at 24.

¹¹ *Id.*

¹² *Id.* at 22.

¹³ HISA Rule 2262 Void Claim, <https://hisaus.org/regulations>.

¹⁴ *Id.*

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20. The Laurel Park stewards subsequently conducted a hearing on voiding the claim of GIRLS LOVE ME pursuant to the Authority's Void Claim Rule on February 4, 2022.¹⁶

21. On February 9, 2023, the Laurel Park stewards issued a ruling finding the presence of Dexamethasone and Trichlormethiazide in GIRLS LOVE ME during the December 9, 2022, race. The ruling mandated that the claim of GIRLS LOVE ME be voided pursuant to HISA Rule 2262(c)(5). Voiding the claim required Parram to return the claim fee to the new owners of GIRLS LOVE ME.¹⁷

22. Parram received notice of the February 4, 2023, hearing via mail and over the racetrack intercom system that the Laurel Park stewards use to notify horseracing participants at the track of meetings and hearings, and he waived his right to have legal representation present at the hearing.¹⁸

23. Parram filed an Appeal of the Laurel Park stewards' ruling with the Authority on February 10, 2023.¹⁹

24. Parram and the Authority entered a stipulation of the above outlined facts during the pendency of the appeal before the Authority's Board on June 13, 2023.²⁰

¹⁵ Hearing Transcript at 28.

¹⁶ Appeal Book, Tab 5, Stipulation with Rulings at 26.

¹⁷ *Id.*

¹⁸ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 26.

¹⁹ Appeal Book, Tab 2, Notice of Appeal at 4.

²⁰ Appeal Book, Tab 5, Stipulation with Rulings at 19.

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25. The Authority conducted a Board hearing of the matter on October 4, 2023. Parram, owner Ulman, and the Laurel Park stewards appeared as witnesses at the hearing.²¹

26. The Authority issued a written decision on appeal on December 14, 2023.²²

27. Parram filed an appeal of the Authority's decision with the Federal Trade Commission (the "Commission") on December 21, 2023.²³

28. The Commission conducted an evidentiary hearing before an Administrative Law Judge on March 1, 2024, limited to whether Parram was prejudiced by delays in the hearings below.

PROPOSED CONCLUSIONS OF LAW

1. The Horseracing Integrity and Safety Act (the "Act"), 15 USC 57A § 3051 *et seq.* created the Authority with the mandate to ensure the integrity and welfare of all covered horseracing participants. To fulfill this purpose, the Authority created two programs: the Racetrack Safety Program and the Anti-Doping and Medication Control ("ADMC") Program. To become effective, the regulations creating these programs required approval from the Commission. The Racetrack Safety Program took effect on July 1, 2022. The ADMC Program later took effect on May 22, 2023.²⁴

²¹ Appeal Book, Tab 7, Briefing Schedule Order at 34.

²² Appeal Book, Tab 11, Decision on Appeal at 70.

²³ Appeal Book, Tab 13, Parram Notice of Appeal at 84.

²⁴ *Regulations*, HISA, <https://hisaus.org/regulations>.

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2. The Act specifically states that the Authority's rules preempt any state law or regulation. However, given the length of time between the effective dates of the Racetrack Safety Program and the ADMC Program, the Authority did not preempt rules surrounding prohibited substances and controlled medications until May 2023. The Authority issued guidance on March 14, 2022, stating, "Accordingly, while state laws are preempted with respect to matters on which the FTC has approved and promulgated a final rule, State law will continue to regulate matters on which the FTC has not yet approved and promulgated a final rule."²⁵

3. At the time of all relevant events in this matter, Maryland state regulations concerning prohibited substances and sanctions associated with the presence of prohibited substances in a horse at the time of a race were in effect and had not yet been preempted by the ADMC program.²⁶

4. Laurel Park stewards act as agents of the Authority to enforce the Authority's rules at the Laurel Park racetrack pursuant to HISA Rule 2133.²⁷

5. GIRLS LOVE ME tested positive for Dexamethasone and Trichlormethiazide in his system on December 9, 2022. Maryland state regulation, COMAR 09.10.03.04B(2)(c) prohibited the presence of both Dexamethasone and Trichlormethiazide in the presence of a horse during a race.²⁸

6. Under Maryland state regulation, COMAR 09.10.03.04C, the Laurel Park stewards disqualified GIRLS LOVE ME from the race on December 9, 2022,

²⁵ 3/14/22 Guidance, HISA, <https://hisaus.org/regulations#3-14-22-guidance>.

²⁶ *Id.*

²⁷ HISA 2133 Stewards [https://hisaus.org/regulations#racetrack-safety-program-\(rule-series-2000\)](https://hisaus.org/regulations#racetrack-safety-program-(rule-series-2000)).

²⁸ Maryland Racing Commission, COMAR 09.10.03.04, <https://dsd.maryland.gov/regulations/Pages/09.10.03.04.aspx>.

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and redistributed the purse pursuant to the positive test for prohibited substances.²⁹ The Laurel Park stewards held a hearing on the Maryland prohibited substance violation on January 8, 2023. The stewards provided Parram sufficient notice of the hearing and afforded him the right to have legal counsel present at the hearing, which Parram waived.³⁰ After the hearing the Laurel Park stewards properly disqualified GIRLS LOVE ME from the race and redistributed all purse monies pursuant to Maryland regulation.³¹

7. Separately, the Authority's void claim rule mandated that the Laurel Park stewards void the claim of GIRLS LOVE ME after the horse tested positive for Dexamethasone and Trichlormethiazide. As the Authority's ADMC rules were not yet in effect, Maryland regulations regarding prohibited substances determined whether the substances in GIRLS LOVE ME's system were prohibited at the time of the December 9, 2022, race.³²

8. The Laurel Park stewards held a hearing on the Void Claim Rule on February 9, 2023. The stewards provided Parram sufficient notice of the hearing and afforded him the right to have legal counsel present at the hearing, which Parram waived.³³ After the hearing, the stewards properly voided the claim of GIRLS LOVE ME.

9. The Authority's Void Claim Rule mandated the Laurel Park stewards to void the claim of GIRLS LOVE ME after the horse's positive test for prohibited

²⁹ *Id.*

³⁰ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 26.

³¹ *Id.*

³² *3/14/22 Guidance*, HISA, <https://hisaus.org/regulations#3-14-22-guidance>.

³³ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 26.

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substances. Failure to void the claim would have breached the Laurel Park stewards' responsibilities as the Authority's agents to enforce the rules of the Authority pursuant to Rule 2133.

10. The first hearing the Laurel Park stewards held on January 8 2023, adjudicated the Maryland state regulatory violation of GIRLS LOVE ME's positive test for prohibited substances during a race pursuant to COMAR 09.10.03.04B(2)(c), and COMAR 09.10.03.04C required the stewards to disqualify the horse and redistribute the purse monies.³⁴ The second hearing the Laurel Park stewards held four weeks later on February 9, 2023, adjudicated the Authority's Void Claim Rule, HISA Rule 2262, that required a claim to be voided upon a positive test for a prohibited substance.³⁵ The two hearings that the Laurel Park stewards conducted with Parram constituted two distinct adjudications of violations under separate jurisdictions: the Maryland Racing Commission and the Authority. These violations, distinct and separate, were properly adjudicated in two separate hearings.

11. Parram has failed to provide any evidence or information indicating that a delay between the two hearings prejudiced him. Parram was provided with sufficient notice of both hearings. Further, Parram, as a participant in thoroughbred racing under the jurisdiction of both the Authority and the Maryland Racing Commission, assented to comply with the Authority's and Maryland's racing regulations. Parram's registration and licensure with each jurisdiction affirmed his assent to and notice of all regulations by which he was required to abide.

³⁴ *Id.*

³⁵ Appeal Book, Tab 5, Stipulation with Rulings at 26.

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12. The Commission concludes that GIRLS LOVE ME tested positive for Dexamethasone and Trichlormethiazide during the race on December 9, 2022. Pursuant to the Authority's Void Claim Rule, HISA Rule 2262(c)(5), the claim of GIRLS LOVE ME is void.

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Proposed Order

The undersigned Chief Administrative Law Judge (“ALJ”), having held an evidentiary hearing on March 1, 2024, having reviewed the entire record *de novo*, and having reviewed the parties’ submitted proposed findings of fact and conclusions of law, hereby makes the following findings of fact and conclusions of law.

Introduction

On February 9, 2023, the stewards at Laurel Park issued Derrick Parram, owner and trainer of GIRLS LOVE ME, a ruling voiding the claim of GIRLS LOVE ME for violating Horseracing Integrity and Safety Authority (“HISA” or the “Authority”) Rule 2262(c)(5) (the “Void Claim Rule”) for the horse’s positive test for prohibited substances after a claiming race on December 9, 2022. The void claim ruling required Parram to return the claim price of \$12,500 to the claiming owners.³⁶ The Laurel Park stewards properly voided the claim of GIRLS LOVE ME pursuant to the Authority’s Void Claim Rule. The evidence in the record, at all underlying proceedings, and presented at the Commission’s evidentiary hearing on the matter supports this finding.

Factual Background

Parram raced GIRLS LOVE ME on December 9, 2022, in a claiming race for a claim price of \$12,500.³⁷ New owners, Ulman and Vieser, claimed the horse at the

³⁶ Appeal Book, Tab 5, Stipulation with Rulings at 26.

³⁷ *Id.* at 20.

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conclusion of the race.³⁸ Per custom, Maryland regulators took a blood sample of GIRLS LOVE ME to test for the presence of prohibited substances.³⁹ On January 6, 2023, the blood sample results returned revealing the presence of Dexamethasone and Trichlormethiazide in GIRLS LOVE ME's blood at the time of the claiming race.⁴⁰ On January 8, 2023, pursuant to Maryland regulation of prohibited substances, the Laurel Park stewards held a hearing with Parram regarding the positive for Dexamethasone and Trichlormethiazide.⁴¹ The stewards issued a ruling disqualifying GIRLS LOVE ME from the race and redistributing purse monies from the race.⁴²

In the meantime, new owners Ulman and Vieser raced GIRLS LOVE ME at Laurel Park on December 31, 2022, and during the race the horse suffered a leg injury.⁴³ GIRLS LOVE ME underwent surgery and died from colic on January 20, 2023.⁴⁴ After the new owners' trainer, Dale Capuano, contacted the Laurel Park stewards with a protest regarding the application of the Authority's Void Claim Rule, the stewards held an additional hearing with Parram on February 9, 2023.⁴⁵ The stewards voided the claim of GIRLS LOVE ME pursuant to HISA Rule 2262(c)(5).⁴⁶

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at 24.

⁴³ *Id.* at 22.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 26.

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Parram appealed the HISA Rule 2262(c)(5) ruling to the Authority's Board where he was afforded a full hearing on the appeal.⁴⁷ The HISA Board affirmed the stewards' ruling finding that the ruling was not "clearly erroneous and was supported by the evidence and applicable law."⁴⁸ Parram appealed the Authority's decision to the Federal Trade Commission⁴⁹ (the "Commission") and received a limited evidentiary hearing on the issue of whether he was prejudiced by the time between the two hearings at Laurel Park.⁵⁰ The Commission's evidentiary hearing was held on March 1, 2024.

The Authority's Void Claim Rule

The Horseracing Integrity and Safety Act, 15 USC 57A § 3051 *et seq.* formed the Authority with the express mandate to create a program that would preserve the safety, integrity, and welfare of equine and human participants in thoroughbred horseracing. To fulfil this directive, the Authority created two programs: the Racetrack Safety Program and the Anti-Doping and Controlled Medication ("ADMC") Program. The Racetrack Safety Program took effect on July 1, 2022, when the Commission approved the Racetrack Safety Program regulations promulgated by the Authority. The Racetrack Safety Program protects the wellbeing of equine and human thoroughbred racing participants by mitigating known sources of potential injury to equine and human participants in horseracing. The ADMC Program later went into effect on May 22, 2023, when the Commission

⁴⁷ Appeal Book, Tab 2, Notice of Appeal at 4.

⁴⁸ Appeal Book, Tab 11, Decision on Appeal at 78.

⁴⁹ Appeal Book, Tab 13, Notice of Appeal at 84.

⁵⁰ Appeal Book, Tab 20, Order on Application for Review and Setting Date for Evidentiary Hearing at 130.

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approved the Authority's promulgated regulations. The ADMC program regulates the substances and medications administered to thoroughbred racing participants.⁵¹

The Void Claim Rule requires the voiding of a claim based on a positive test for a "Prohibited Substance."⁵² By definition in the Authority's rules, a Prohibited Substance is a substance that is on the Prohibited List of substances or dosages of medications that the ADMC Program regulates.⁵³ As the Racetrack Safety Program became effective before the ADMC program, the Void Claim Rule did not initially have a defined list of prohibited substances from which a positive test could void the claim of a horse pursuant to the Authority's effective regulations. To address this gap in the regulations, the Authority issued guidance on March 14, 2022, stating, "Accordingly, while State laws are preempted with respect to matters on which the FTC has approved and promulgated a final rule, State law will continue to regulate matters on which the FTC has not yet approved and promulgated a final rule." Prior to preemption by the ADMC Program, state racing commissions had long regulated prohibited substances and had promulgated defined lists of prohibited substances. The Authority relied on state regulation of prohibited substances to define which prohibited substances would void the claim of a horse from July 1, 2022 to May 22, 2023.

The stopgap of state regulation to define what constitutes a prohibited substance was critical to fulfilling the mandate of the Racetrack Safety Program.

⁵¹ *Regulations*, HISA, <https://hisaus.org/regulations>.

⁵² Claiming races allow owners to race a horse with the intention of transferring title to the horse to a new owner at the end of the race for a claiming price set prior to the race. A voided claim returns the horse to the original owner and returns the claim price to the claiming owner.

⁵³ HISA Rule 1020 Definitions [https://hisaus.org/regulations#general-provisions-\(rule-series-1000\)](https://hisaus.org/regulations#general-provisions-(rule-series-1000)).

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The Void Claim Rule disincentivizes owners from administering prohibited substances and improper doses of controlled medications to horses prior to a transfer of ownership of the horse, thereby ensuring the safety of horses and the integrity of the sport.

The Laurel Park Stewards Properly Voided the Claim of GIRLS LOVE ME

GIRLS LOVE ME tested positive for Dexamethasone and Trichlormethiazide after the December 9, 2022, race at Laurel Park.⁵⁴ Pursuant to Maryland Racing Commission regulation, both of those substances are prohibited substances at the time of a race. See COMAR 09.10.03.04.B(2)(c).⁵⁵ As the ADMC Program had yet to take effect in December 2022, the Authority relied on Maryland Racing Commission regulations as a stopgap to define prohibited substances during horseraces.⁵⁶ GIRLS LOVE ME tested positive for two prohibited substances under Maryland state regulation. The Void Claim Rule is compulsory as it says, “The claim **shall** be voided...if... (5) the Horse has a positive test for a Prohibited Substance” (emphasis added). The Laurel Park stewards, acting in their agency capacity on behalf of the Authority, were charged with enforcing the Authority’s rules.⁵⁷ The Laurel Park stewards did not have discretion in their application of the Void Claim Rule in this matter. GIRLS LOVE ME’s positive test for two prohibited substances mandated that the stewards void the claim of the horse.

⁵⁴ Appeal Book, Tab 5, Stipulations with Rulings at 20.

⁵⁵ Maryland Racing Commission, COMAR 09.10.03.04, <https://dsd.maryland.gov/regulations/Pages/09.10.03.04.aspx>.

⁵⁶ 3/14/22 Guidance, HISA, <https://hisaus.org/regulations#3-14-22-guidance>.

⁵⁷ HISA Rule 2133 Stewards.

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The Delay Between Hearings Did Not Prejudice Appellant Parram

The four-week period between the two hearings the Laurel Park stewards held with Parram regarding the Maryland prohibited substances violation and the Authority's Void Claim Rule did not prejudice Parram. The two hearings adjudicated entirely separate issues. The first hearing on January 8, 2023, adjudicated the violation of Maryland Racing Commission regulation COMAR 09.10.03.04C and required the disqualification of GIRLS LOVE ME from the race and the redistribution of purse monies. The second hearing, held on February 9, 2023, adjudicated the voiding of the claim of GIRLS LOVE ME pursuant to HISA Rule 2262(c)(5). These violations arose under distinct racing regulations. As the ADMC program had not yet taken effect, Maryland regulation concerning prohibited substances was still in full effect. This allowed the stewards to adjudicate a Maryland prohibited substances violation in addition to the Authority's Void Claim Rule as two separate violations. Any delay between the two hearings had no legal effect on the validity of either ruling. Further, Parram has failed to produce any evidence in the record or evidence at the Commission's evidentiary hearing on March 1, 2024, that he suffered prejudice during the time between the hearings. As such, the time between the hearing on the Maryland Racing Commission regulatory violation and the Authority's Void Claim Rule did not alter the legality of either ruling or cause legal or other harm to Parram.

Findings of Fact

1. The Horseracing Integrity and Safety Authority (the “Authority”) maintains its headquarters at 401 West Main Street, Suite 222, Lexington, Kentucky 40507.

2. The Authority was created by the Horseracing Integrity and Safety Act, 15 USC 57A § 3051 *et seq.*

3. The Authority exists to develop and implement a racetrack safety program for Covered Horses, Covered Persons, and Covered Horseraces.

4. Laurel Park is a Racetrack, pursuant to the Authority’s Rules, where Covered Horseraces are conducted.

5. Laurel Park maintains its racing operations at Route 198 & Racetrack Road, Laurel, Maryland 20725.

6. GIRLS LOVE ME is a Covered Horse, pursuant to the Authority’s Rules.

7. Derrick Parram was the owner and trainer of the Covered Horse GIRLS LOVE ME.⁵⁸

8. On December 9, 2022, Parram raced GIRLS LOVE ME in a claiming race at Laurel Park.⁵⁹

⁵⁸ Appeal Book, Tab 5, Stipulation with Rulings at 20.

⁵⁹ *Id.*

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9. Louis J. Ulman and Walter Vieser, II claimed the horse by taking title to GIRLS LOVE ME at the end of the claiming race in exchange for the claiming price of \$12,500.⁶⁰

10. After the race on December 9, 2022, Laurel Park racing officials collected a blood sample from GIRLS LOVE ME to test for the presence of prohibited substances in the horse's blood at the time of the race.⁶¹

11. On January 6, 2023, the lab returned the blood sample results that indicated the presence of Dexamethasone and Trichlormethiazide in GIRLS LOVE ME's blood at the time of the December 9, 2022, race.⁶²

12. Dexamethasone is an FDA equine-approved medication used as a rapid adrenal glucocorticoid and/or anti-inflammatory agent.⁶³ Trichlormethiazide is a discontinued medication, and no FDA approved product is commercially available. The discontinued trichlormethiazide veterinary product, which contained dexamethasone, was used in horses as supportive therapy for the management of inflammatory conditions like arthritic lameness and other stress conditions that required corticosteroids.⁶⁴

13. The Laurel Park stewards conducted a hearing with Parram on January 8, 2023, regarding the laboratory results. Pursuant to COMAR 09.10.03.04C, the stewards issued a ruling finding Parram violated Maryland state

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Horseracing Integrity and Welfare Unit, *HISA Controlled & Banned Substances Lookup*, <https://www.hiwu.org/substances?terms=dexamethasone>.

⁶⁴ Horseracing Integrity and Welfare Unit, *HISA Controlled & Banned Substances Lookup*, <https://www.hiwu.org/substances?terms=trichlormethiazide>.

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racing regulation because GIRLS LOVE ME had Dexamethasone and Trichlormethiazide, prohibited substances, in his system at the time of the race on December 9, 2022. The ruling disqualified GIRLS LOVE ME from the December 9, 2022, race and redistributed the purse, pursuant to Maryland regulation.⁶⁵

14. Parram received notice of the January 8, 2023, hearing via mail and over the racetrack intercom system that the Laurel Park stewards use to notify horseracing participants at the track of meetings and hearings, and he waived his right to have legal representation present at the hearing.⁶⁶

15. Prior to the return of the lab results and the adjudication of the Maryland Racing Commission violation, new owners Ulman and Vieser raced GIRLS LOVE ME at Laurel Park on December 31, 2022.⁶⁷

16. GIRLS LOVE ME suffered a leg injury during the race on December 31, 2022.⁶⁸

17. GIRLS LOVE ME underwent surgery on his knee and died from colic on January 20, 2023, while in the care of owners Ulman and Vieser.⁶⁹

18. On February 1, 2023, Dale Capuano, the trainer employed by Ulman and Vieser, contacted the Laurel Park stewards to protest the stewards' failure to void the claim pursuant to HISA Rule 2262⁷⁰ (the "Void Claim Rule").⁷¹

⁶⁵ *Id.* at 20-21.

⁶⁶ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 24-25.

⁶⁷ Appeal Book, Tab 5, Stipulation with Rulings at 24.

⁶⁸ *Id.*

⁶⁹ *Id.* at 22.

⁷⁰ HISA Rule 2262 Void Claim, <https://hisaus.org/regulations>.

⁷¹ *Id.*

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19. The Authority did not have a rule prohibiting or limiting the time in which a third party could contact the Authority or its agent to make a protest regarding a perceived violation.⁷²

20. The Laurel Park stewards subsequently conducted a hearing on voiding the claim of GIRLS LOVE ME pursuant to the Authority's Void Claim Rule on February 4, 2022.⁷³

21. On February 9, 2023, the Laurel Park stewards issued a ruling finding the presence of Dexamethasone and Trichlormethiazide in GIRLS LOVE ME during the December 9, 2022, race. The ruling mandated that the claim of GIRLS LOVE ME be voided pursuant to HISA Rule 2262(c)(5). Voiding the claim required Parram to return the claim fee to the new owners of GIRLS LOVE ME.⁷⁴

22. Parram received notice of the February 4, 2023, hearing via mail and over the racetrack intercom system that the Laurel Park stewards use to notify horseracing participants at the track of meetings and hearings, and he waived his right to have legal representation present at the hearing.⁷⁵

23. Parram filed an Appeal of the Laurel Park stewards' ruling with the Authority on February 10, 2023.⁷⁶

24. Parram and the Authority entered a stipulation of the above outlined facts during the pendency of the appeal before the Authority's Board on June 13, 2023.⁷⁷

⁷² Hearing Transcript at 28.

⁷³ Appeal Book, Tab 5, Stipulation with Rulings at 26.

⁷⁴ *Id.*

⁷⁵ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 26.

⁷⁶ Appeal Book, Tab 2, Notice of Appeal at 4.

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25. The Authority conducted a Board hearing of the matter on October 4, 2023. Parram, owner Ulman, and the Laurel Park stewards appeared as witnesses at the hearing.⁷⁸

26. The Authority issued a written decision on appeal on December 14, 2023.⁷⁹

27. Parram filed an appeal of the Authority's decision with the Federal Trade Commission (the "Commission") on December 21, 2023.⁸⁰

28. The Commission conducted an evidentiary hearing before an Administrative Law Judge on March 1, 2024, limited to whether Parram was prejudiced by delays in the hearings below.

Conclusions of Law

1. The Horseracing Integrity and Safety Act (the "Act"), 15 USC 57A § 3051 *et seq.* created the Authority with the mandate to ensure the integrity and welfare of all covered horseracing participants. To fulfill this purpose, the Authority created two programs: the Racetrack Safety Program and the Anti-Doping and Medication Control ("ADMC") Program. To become effective, the regulations creating these programs required approval from the Commission. The Racetrack Safety Program took effect on July 1, 2022. The ADMC Program later took effect on May 22, 2023.⁸¹

⁷⁷ Appeal Book, Tab 5, Stipulation with Rulings at 19.

⁷⁸ Appeal Book, Tab 7, Briefing Schedule Order at 34.

⁷⁹ Appeal Book, Tab 11, Decision on Appeal at 70.

⁸⁰ Appeal Book, Tab 13, Parram Notice of Appeal at 84.

⁸¹ *Regulations*, HISA, <https://hisaus.org/regulations>.

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2. The Act specifically states that the Authority's rules preempt any state law or regulation. However, given the length of time between the effective dates of the Racetrack Safety Program and the ADMC Program, the Authority did not preempt rules surrounding prohibited substances and controlled medications until May 2023. The Authority issued guidance on March 14, 2022, stating, "Accordingly, while state laws are preempted with respect to matters on which the FTC has approved and promulgated a final rule, State law will continue to regulate matters on which the FTC has not yet approved and promulgated a final rule."⁸²

3. At the time of all relevant events in this matter, Maryland state regulations concerning prohibited substances and sanctions associated with the presence of prohibited substances in a horse at the time of a race were in effect and had not yet been preempted by the ADMC program.⁸³

4. Laurel Park stewards act as agents of the Authority to enforce the Authority's rules at the Laurel Park racetrack pursuant to HISA Rule 2133.⁸⁴

5. GIRLS LOVE ME tested positive for Dexamethasone and Trichlormethiazide in his system on December 9, 2022. Maryland state regulation, COMAR 09.10.03.04B(2)(c) prohibited the presence of both Dexamethasone and Trichlormethiazide in the presence of a horse during a race.⁸⁵

6. Under Maryland state regulation, COMAR 09.10.03.04C, the Laurel Park stewards disqualified GIRLS LOVE ME from the race on December 9, 2022,

⁸² 3/14/22 Guidance, HISA, <https://hisaus.org/regulations#3-14-22-guidance>.

⁸³ *Id.*

⁸⁴ HISA 2133 Stewards [https://hisaus.org/regulations#racetrack-safety-program-\(rule-series-2000\)](https://hisaus.org/regulations#racetrack-safety-program-(rule-series-2000)).

⁸⁵ Maryland Racing Commission, COMAR 09.10.03.04, <https://dsd.maryland.gov/regulations/Pages/09.10.03.04.aspx>.

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and redistributed the purse pursuant to the positive test for prohibited substances.⁸⁶ The Laurel Park stewards held a hearing on the Maryland prohibited substance violation on January 8, 2023. The stewards provided Parram sufficient notice of the hearing and afforded him the right to have legal counsel present at the hearing, which Parram waived.⁸⁷ After the hearing the Laurel Park stewards properly disqualified GIRLS LOVE ME from the race and redistributed all purse monies pursuant to Maryland regulation.⁸⁸

7. Separately, the Authority's void claim rule mandated that the Laurel Park stewards void the claim of GIRLS LOVE ME after the horse tested positive for Dexamethasone and Trichlormethiazide. As the Authority's ADMC rules were not yet in effect, Maryland regulations regarding prohibited substances determined whether the substances in GIRLS LOVE ME's system were prohibited at the time of the December 9, 2022, race.⁸⁹

8. The Laurel Park stewards held a hearing on the Void Claim Rule on February 9, 2023. The stewards provided Parram sufficient notice of the hearing and afforded him the right to have legal counsel present at the hearing, which Parram waived.⁹⁰ After the hearing, the stewards properly voided the claim of GIRLS LOVE ME.

9. The Authority's Void Claim Rule mandated the Laurel Park stewards to void the claim of GIRLS LOVE ME after the horse's positive test for prohibited

⁸⁶ *Id.*

⁸⁷ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 26.

⁸⁸ *Id.*

⁸⁹ *3/14/22 Guidance*, HISA, <https://hisaus.org/regulations#3-14-22-guidance>.

⁹⁰ Hearing Transcript at 44-46; Appeal Book, Tab 5, Stipulation with Rulings at 26.

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substances. Failure to void the claim would have breached the Laurel Park stewards' responsibilities as the Authority's agents to enforce the rules of the Authority pursuant to Rule 2133.

10. The first hearing the Laurel Park stewards held on January 8 2023, adjudicated the Maryland state regulatory violation of GIRLS LOVE ME's positive test for prohibited substances during a race pursuant to COMAR 09.10.03.04B(2)(c), and COMAR 09.10.03.04C required the stewards to disqualify the horse and redistribute the purse monies.⁹¹ The second hearing the Laurel Park stewards held four weeks later on February 9, 2023, adjudicated the Authority's Void Claim Rule, HISA Rule 2262, that required a claim to be voided upon a positive test for a prohibited substance.⁹² The two hearings that the Laurel Park stewards conducted with Parram constituted two distinct adjudications of violations under separate jurisdictions: the Maryland Racing Commission and the Authority. These violations, distinct and separate, were properly adjudicated in two separate hearings.

11. Parram has failed to provide any evidence or information indicating that a delay between the two hearings prejudiced him. Parram was provided with sufficient notice of both hearings. Further, Parram, as a participant in thoroughbred racing under the jurisdiction of both the Authority and the Maryland Racing Commission, assented to comply with the Authority's and Maryland's racing regulations. Parram's registration and licensure with each jurisdiction affirmed his assent to and notice of all regulations by which he was required to abide.

⁹¹ *Id.*

⁹² Appeal Book, Tab 5, Stipulation with Rulings at 26.

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The Commission concludes that GIRLS LOVE ME tested positive for Dexamethasone and Trichlormethiazide during the race on December 9, 2022. Pursuant to the Authority's Void Claim Rule, HISA Rule 2262(c)(5), the claim of GIRLS LOVE ME is void.

Conclusion

The Laurel Park stewards ruling appropriately voided the claim of GIRLS LOVE ME pursuant to HISA Rule 2262(c)(5) based upon the horse's positive for prohibited substances. The stewards' previous adjudication of Maryland state regulations was a separate and distinct adjudication from the Void Claim Rule hearing held on February 9, 2023; no time between the two hearings caused any legal or other prejudice to Parram.

Based on the foregoing findings of fact and conclusions of law, it is hereby **ORDERED AND ADJUDGED** as follows:

The Commission hereby **AFFIRMS** the stewards' ruling and **UPHOLDS** the voided claim of GIRLS LOVE ME as the record supports the Laurel Park stewards' findings in the ruling from February 9, 2023, and the December 14, 2023, decision by the Authority's Board.

Entered this _____ day of _____, 2024.

D. Michael Chappell
Chief Administrative Law Judge