

Rule 1.146 of the Procedures for Review of Final Civil Sanctions Imposed under the Horseracing Integrity and Safety Act provides in pertinent part:

In reviewing the final civil sanction and decision of the Authority, the Administrative Law Judge may rely in full or in part on the factual record developed before the Authority through the disciplinary process under 15 U.S.C. 3057(c) and disciplinary hearings under Authority Rule Series 8300. The record may be supplemented by an evidentiary hearing conducted by the Administrative Law Judge to ensure each party receives a fair and impartial hearing. Within 20 days of the filing of an application for review, based on the application submitted by the aggrieved party or by the Commission and on any response by the Authority, the Administrative Law Judge will assess whether:

- (i) The parties do not request to supplement or contest the facts found by the Authority;
- (ii) The parties do not seek to contest any facts found by the Authority, but at least one party requests to supplement the factual record;
- (iii) At least one party seeks to contest any facts found by the Authority; . . . or
- (v) In the Administrative Law Judge’s view, the factual record is insufficient to adjudicate the merits of the review proceeding.

16 C.F.R. § 1.146(c)(2).

While Appellants contest the factual findings of the Stewards and the Authority and have requested to supplement the factual record, Appellants only contest the weight given to the evidence in the record. Moreover, Appellants do not specify any relevant evidence needed to supplement the factual record. Appellants allude to disallowed expert witness opinion as to “why” Appellant Ceballos was permitted to use the riding crop; however, the Authority’s decision states that Appellants’ proffered expert witness did, in fact, testify at the hearing that, in his opinion, Ceballos “made reasonable use of the crop in attempting to steer the horse” because the horse was failing to maintain a straight course on the racetrack (referred to as “lugging”). HISA Regulations govern why such use is permitted and further expert opinion on the issue is unnecessary. Thus, Appellants’ remaining points on appeal, regarding the existence of findings of fact and the procedural adequacy of using Zoom video conferencing can be addressed by written submissions. In summary, the existing factual record is sufficient to resolve this appeal.

Accordingly, Appellants’ request for an evidentiary hearing is DENIED, and it is hereby ORDERED, that the hearing of this appeal will be limited to briefing by the parties, in compliance with Rule 1.146(c)(3), in accordance with the following schedule:

1. The parties shall file proposed findings of fact, proposed conclusions of law, a proposed order, and a supporting legal brief providing the party’s reasoning no later than June 20, 2024.

2. The parties shall file reply findings of fact and conclusions of law and supporting reply briefs no later than July 1, 2024.

It is further ORDERED that the parties shall confer and submit, no later than June 12, 2024, a joint Appeal Book containing the evidentiary record presented below, including without limitation all hearing video and transcripts, and all documentary and video exhibits.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: June 5, 2024