UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of	)	
Chris Allen Hartman,	)	Docket No. 9432
Appellant.	)	

ORDER ON APPLICATION FOR REVIEW AND APPLICATION FOR STAY

On June 7, 2024, Chris Allen Hartman ("Appellant") filed both an Application for Review and an Application for Stay with the Federal Trade Commission ("FTC"). Appellant seeks review of final civil sanctions imposed on him by the Horseracing Integrity and Safety Authority ("Authority") after a decision of the Internal Adjudication Panel ("IAP"), which found him in violation of Anti-Doping and Medication Control ("ADMC") Program Rule 3312(b) ("Decision"). He further requests that the civil sanctions be stayed pending review. The Authority filed its response to Appellant's Application for Review ("Response") on June 17, 2024 and its response to Appellant's Application for Stay on June 14, 2024.

The IAP determined that Appellant violated ADMC Program Rule 3312(b) based upon the presence of a metabolite of the controlled medication Acepromazine in a post-race sample collected on June 18, 2023 from the horse Necker Island, for whom Appellant was the trainer. The Authority imposed on Appellant the following civil sanctions: (1) a fifteen-day period of ineligibility from June 6 through June 20, 2024; (2) a fine of $1,000; (3) assignment of two penalty points; (4) disqualification of the applicable race results for Necker Island and forfeiture, repayment, or surrender of all purses and other compensation; and (5) public reporting and disclosure of the violation ("Sanctions").

I. Application for Review

Pursuant to the FTC's Procedures for Review of Final Civil Sanctions Imposed under the Horseracing Integrity and Safety Act ("HISA") ("FTC Rules"):

> 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:
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> (i) The parties do not request to supplement or contest the facts found by the Authority;
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> (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).

In his Application for Review, Appellant makes numerous allegations of legal error in the proceedings below. While Appellant states that he disagrees with how the IAP weighed the evidence and reached its factual findings, he neither requests an evidentiary hearing nor to supplement the record with additional evidence.[1] And although he disagrees with the IAP's ultimate findings and conclusions, Appellant does not identify contested facts or errors in the record. In its Response, the Authority argues that its Horseracing Integrity and Welfare Unit (HIWU) met its burden of demonstrating that Appellant violated Rule 3312(b) and that the hearing before the IAP was conducted properly. The Authority therefore requests that the Decision and Sanctions be upheld.

Based on the foregoing, I conclude that neither party seeks to supplement or alter the evidentiary record. Further, there is no basis for concluding that the evidentiary record is insufficient. Accordingly, the factual record will be deemed closed and no evidentiary hearing will be held; proceedings will be limited to briefing by the parties. *Id.* § 1.146(c)(3).

The parties are directed to concurrently file with the FTC's Office of the Secretary, **by July 8, 2024**, proposed findings of fact, conclusions of law, a proposed order, and a supporting legal brief providing the party's reasoning. Such filings are limited to 7,500 words, must be served on the other party, and must contain references to the record and authorities on which they rely. Reply findings of fact, conclusions of law and briefs, limited to 2,500 words, may be filed by each party within ten days of service of the initial filings. *Id.*

Please provide to the Office of Administrative Law Judges courtesy hardcopies of all filings.

[1] Although Appellant "requests to supplement the record," he simultaneously concedes that the evidence before the IAP was sufficient by contending only that the IAP erred in its findings based on that record. (Application for Review at 3).

II. Application for Stay

Under the FTC Rules, an application for a stay of a final civil sanction imposed by the Authority "must provide the reasons a stay is or is not warranted by addressing the [following] factors . . . and the facts relied upon":

(1) The likelihood of the applicant's success on review;

(2) Whether the applicant will suffer irreparable harm if a stay is not granted;

(3) The degree of injury to other parties or third parties if a stay is granted; and

(4) Whether the stay is in the public interest.

Id. § 1.148(c)-(d).

In his Application for Stay, Appellant argues that: (1) he is likely to succeed on review because the testing laboratories did not use a validated method for separating the Acepromazine metabolite and HIWU did not establish that the positive test result was not caused by errors in testing; (2) he has suffered irreparable harm through the loss of two training opportunities during the fifteen-day suspension period;[2] (3) there is no risk of injury to HIWU or third parties if a stay is granted; and (4) it is in the public interest to stay a sanction that was predicated upon improper application of HISA rules.

The Authority opposes Appellant's Application for Stay, arguing that: (1) the likelihood of Appellant's success on review is low because three laboratories detected the Acepromazine metabolite above the screening limit and the ADMC Program Rules were appropriately followed; (2) Appellant will not suffer irreparable harm absent a stay because, though the fifteen-day ineligibility period may have resulted in him missing certain thoroughbred races, such races are not once-in-a-lifetime events; (3) other parties, including horseracing stakeholders such as the betting public, will be harmed if a stay is granted because the Authority's efforts to protect the integrity of horseracing will be undermined by permitting Appellant's participation; and (4) a stay would not be in the public interest because Appellant's arguments on the merits misapply the law.

First, based on the information available at this preliminary stage, it is not apparent that the metabolite-separation method Appellant alleges should have been followed as part of the controlled substance testing was in fact a validated method or a method that was required, or that other alleged departures from the HISA rules occurred that could reasonably have caused the positive test result. Therefore, Appellant has not established a high likelihood of success on review at this time. Second, Appellant has not shown that absent a stay he will suffer irreparable

[2] Appellant also argues that irreparable harm is established because prior rules promulgated under HISA were found unconstitutional, citing *Nat'l Horsemen's Benevolent & Protective Ass'n v. Black*, 53 F.4th 869 (5th Cir. 2022). This argument is without merit. HISA and the rules thereunder were subsequently amended and have since been found to be constitutional. *Oklahoma v. United States*, 62 F.4th 221 (6th Cir. 2023), *cert. denied*, No. 23-402, 2024 WL 3089535 (U.S. June 24, 2024).

harm. Appellant's fifteen-day ineligibility period has already run and therefore a stay at this time would not affect the imposition of that sanction. Moreover, even if the ineligibility period had not yet concluded, Appellant has not established that the harm associated with being ineligible to train horses for fifteen days would be *irreparable*.[3] *See Sampson v. Murray*, 415 U.S. 61, 90 (1974) (stating that "it seems clear that the temporary loss of income, ultimately to be recovered, does not usually constitute irreparable injury."). Regarding the third and fourth factors, while it does not appear that any other parties or third parties would be harmed by granting a stay, Appellant has not established that it is in the public interest to issue a stay pending the review of this matter.

Considering the factors set forth and for the reasons stated above, I conclude that, on balance, a stay of the Sanctions is not warranted. Accordingly, Appellant's Application for Stay is DENIED.

ORDERED: *Dania L. Ayoubi*

Dania L. Ayoubi
Administrative Law Judge

Date: June 27, 2024

[3] Appellant relies on a bankruptcy court decision to demonstrate irreparable harm. *See In re Adelphia Commc'ns Corp.*, 361 B.R. 337, 348 (S.D.N.Y. 2007). However, that case is distinguishable. Here, unlike in *Adelphia*, the denial of the stay request does not risk mooting the entire appeal.