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

)
) ) Docket No. 9423
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## ORDER DIRECTING PRODUCTION OF DOCUMENTS SUBMITTED FOR IN CAMERA REVIEW

In preparation for the evidentiary hearing set for July 16, 2024, two additional documents – referred to here as JX11 (Appellant's Exhibit 32/Authority's Exhibit 14) and Appellant's Exhibit 41 – were submitted to me for *in camera* review. The Horseracing Integrity and Welfare Unit (together with the Horseracing Integrity and Safety Authority, the "Authority") had previously produced redacted versions of each document to counsel for Appellant. I conducted that *in camera* review and thereafter addressed matters relating to the redactions made in the documents with the parties on July 15, 2024 during an *in camera* session held in conjunction with the prehearing conference in this case.

This Order implements the rulings made during the *in camera* session.

- A. While mindful of the Authority's obligations arising from HISA Rule 5620(b), as well as other parts of the Authority's Rules generally, the Authority is **ORDERED**:
- 1. To produce a copy of JX11 in unredacted form.
- 2. To produce a copy of Appellant's Exhibit 41 without the redactions that I over-ruled on the record during the *in camera* session, and with the additional redaction to which the parties agreed on the record.
- B. The documents produced pursuant to this Order shall be subject to the following terms and restrictions:
- 1. JX11 and Appellant's Exhibit 41 and the contents thereof may be used for purposes of this FTC proceeding only, must be kept strictly confidential, and shall not be disclosed to anyone other than the individuals listed in paragraph c. below, except by prior written agreement of the parties, by Order of this court, or by other court order.
- 2. To "disclose" means to disseminate, distribute, discuss, photograph, describe, share, communicate, publish, or otherwise make use of or transmit in any way, including by all electronic means.

- 3. JX11 and Appellant's Exhibit 41 and the contents thereof may be disclosed only to the individuals below:
  - a. The Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding;
  - b. Judges and other court personnel of any court having jurisdiction over any appellate or review proceedings involving this matter;
  - c. Appellant's Counsel, H. Christopher Boehning and Grant S. May, other attorneys and law clerks at Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Counsel's Firm") working on Appellant's case, and any non-attorney legal staff members of Counsel's Firm who are required to access the information;
  - d. Outside expert witnesses retained by Appellant's Counsel, provided that the obligation of confidentiality is accepted by such expert witnesses in writing; and
  - e. The official court reporter for any proceeding in the case.
- 4. For clarity, JX11 and Appellant's Exhibit 41 may not be disclosed to Appellant.
- 5. Within sixty (60) days of the conclusion of these proceedings and any proceedings to confirm, vacate, or modify any Order granted therein, the individuals listed in paragraphs 3.a through 3.e above shall, to the extent legally and technically practicable, destroy or erase all copies of Documents 1 and 2 in their possession, power, or control.
- 6. Information contained in JX11 and Appellant's Exhibit 41 that becomes available to Appellant from a different source, or is information in the public domain, shall not be subject to the confidentiality obligations set out herein.
- 7. Admissibility of all or any part of Appellant's Exhibit 41, and all other matters relating to its use, at the evidentiary hearing are reserved.

ORDERED: Jay L. Himes

Administrative Law Judge

Date: July 16, 2024