

**PUBLIC**

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
FTC DOCKET NO. D-9434**

**ADMINISTRATIVE LAW JUDGE: DANIA L. AYOUBI**

**IN THE MATTER OF:**

**JIM IREE LEWIS**

**APPELLANT**

---

**THE AUTHORITY'S RESPONSE TO APPELLANT'S APPLICATION FOR REVIEW**

---

**PUBLIC**

**CERTIFICATE OF SERVICE**

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of the Authority's Response is being served on July 18, 2024, via Administrative E-File System and by emailing a copy to:

Hon. Dania L. Ayoubi  
Administrative Law Judge  
Office of Administrative Law Judges  
Federal Trade Commission  
600 Pennsylvania Ave. NW  
Washington DC 20580  
Via e-mail to [Oalj@ftc.gov](mailto:Oalj@ftc.gov)

Jim Iree Lewis (*Pro Se*)  
26225 U.S. Highway 70  
Ruidoso Downs, NM 88346  
Via email to [jimireelewis@gmail.com](mailto:jimireelewis@gmail.com)

April Tabor  
Office of the Secretary  
Federal Trade Commission  
600 Pennsylvania Ave. NW  
Washington, DC 20580  
Via email to [electronicfilings@ftc.gov](mailto:electronicfilings@ftc.gov)

*/s/ Bryan Beauman*  
Enforcement Counsel

**PUBLIC**

The Horseracing Integrity and Safety Authority, Inc. (the “**Authority**”) files this Response to Appellant’s Application for review of the Sanctions imposed pursuant to the Final Decision of June 11, 2024 by Arbitral Body member Hugh E. Hackney (the “**Arbitrator**”), under the Authority’s Anti-Doping and Medication Control (“**ADMC**”) Program. As an initial matter, the requirements of the ADCM Program Rules (the “**Rules**”), including Rule 7260, were appropriately followed by both the Horseracing Integrity & Welfare Unit (“**HIWU**”) and the Arbitrator below.

The Appellant’s request for an evidentiary hearing should be denied, as the evidence Appellant seeks to add to the record was either already addressed in the hearing below or would have no bearing on the determination as to whether the imposed Sanctions should be affirmed or reduced. Most importantly, they will not aid Appellant in satisfying his burden to establish the source of the Clenbuterol in his Covered Horse’s Sample, which is a pre-condition to getting reduced Consequences under both Rule 3224 (No Fault or Negligence) and Rule 3225 (No Significant Fault or Negligence).

First, Appellant’s request for an additional hair Sample to be taken from his Covered Horse and analyzed by HIWU was raised in the hearing below. His first request for testing came in October of 2023, more than three (3) months after the original Sample was collected from the Covered Horse Hughie’s Holiday. It was explained in the testimony of Zachary P. Ceriani of HIWU in the hearing that, given the period of time between when Appellant became the Trainer of the Covered Horse and when he first requested a hair Sample, any segmental hair analysis would not have been able to accurately determine a time frame of the administration of the Clenbuterol to the Covered Horse.<sup>1</sup> (*See* Audio Recording 1 of April 18, 2024 Hearing, at 1:13:04.) Appellant cannot explain how the Covered Horse’s blood Sample was positive for Clenbuterol 47 days after

---

<sup>1</sup> It should also be noted that an earlier administration of Clenbuterol does not exclude the possibility that a more recent administration of the substance, closer to the date of Sample collection, had occurred.

**PUBLIC**

the ADMC Program went into effect, when detection of the substance in a blood Sample is only likely to occur within seven (7) days of an administration. (*See* Pages 311- 312 in the record below, AE-6-1 and AE-6-2.)

Second, in the other Clenbuterol matter under the ADMC Program that has been raised by Appellant, the Covered Horse's Adverse Analytical Finding ("AAF") resulted from a hair Sample, and the blood Sample that was collected on the same date was negative. Segmental analysis was performed on the hair Sample at issue to determine the estimated administration date of the Clenbuterol. (*See* Audio Recording 1 of April 18, 2024 Hearing, at 1:06:55). Whereas, in Appellant's case, the Covered Horse's blood Sample resulted in the AAF. Therefore, the other matter is clearly distinguishable from Appellant's case and was also addressed at the hearing below during Mr. Ceriani's testimony.

Third, facts relating to "recent synthetic versions" of Clenbuterol and how they metabolize in horses are only relevant if Appellant can show that his Covered Horse Hughie's Holiday was in fact administered one of these forms of the Prohibited Substance which then resulted in the AAF at issue. Appellant has no such evidence to proffer on this issue.

Lastly, Appellant claims that the testimony of HIWU's expert, Dr. Heather Kynch, is "incomplete," but his counsel had the opportunity to fully cross-examine her at the hearing. In addition, even though he had an opportunity to do so, Appellant never offered an expert report or expert testimony to rebut Dr. Kynch's testimony below.

Consequently, the Authority requests that Appellant's request for an evidentiary hearing be denied as unnecessary. In sum, Appellant has neither proffered any evidence, nor has he made a compelling supporting argument, to justify his request to supplant the record or contest the facts found by the Arbitrator. The Arbitrator applied the appropriate legal standards in his Final

**PUBLIC**

Decision, and Appellant presents no discernable argument for why the Consequences imposed therein can be considered “arbitrary, capricious, an abuse of discretion, prejudicial, or otherwise not in accordance with law,” because no such argument exists. The Authority requests the Commission uphold the Decision and limit any review to written briefing.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 18th day of July, 2024.

/s/Bryan H. Beauman

BRYAN BEAUMAN  
REBECCA PRICE  
333 W. Vine Street, Suite 1500  
Lexington, Kentucky 40507  
Telephone: (859) 255-8581  
[bbeauman@sturgillturner.com](mailto:bbeauman@sturgillturner.com)  
[rprice@sturgillturner.com](mailto:rprice@sturgillturner.com)  
**HISA ENFORCEMENT COUNSEL**

MICHELLE C. PUJALS  
ALLISON J. FARRELL  
4801 Main Street, Suite 350  
Kansas City, MO 64112  
Telephone: (816) 291-1864  
[mpujals@hiwu.org](mailto:mpujals@hiwu.org)  
**HORSERACING INTEGRITY &  
WELFARE UNIT, A DIVISION OF  
DRUG FREE SPORT LLC**