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

In the Matter of

Natalia Lynch,

Appellant.

Docket No. 9423

ORDER OVERRULING OBJECTION IN JOINT STIPULATION REGARDING ORDER ON PHOTOGRAPH AND VIDEO EXHIBITS

The parties' Joint Stipulation Regarding Order On Photograph and Video Exhibits (the "Joint Stipulation") includes a list of Exhibits that they agree: (1) "are probative, visual evidence in that they accurately depict the general layout and conditions in Ms. Lynch's barn at Belmont Park when she occupied it in June 2023 and, to Ms. Lynch's knowledge, the general layout and conditions at Monmouth Park at the time that the photos and videos were taken; and (2) should be admitted into evidence and have already stipulated to that effect."

The Joint Stipulation also includes an objection by Appellant:

Here the photographs and videos of Ms. Lynch's barn at Belmont Park cannot be held to show relevant evidence of the precise conditions of Ms. Lynch's barn in June 2023 because they were taken many months after Ms. Lynch had vacated the barn and show evidence of recent repairs (e.g., JX1 at 674, 675, 677, 678, 682, 690, 692.) To the extent that the Authority offers them to show that repairs depicted in those photos were in place at the time of the alleged Presence violation (*e.g.*, HAB at 651 ("No opening, larger cracks, or other deficiencies were observed."), Ms. Lynch objects to the admission of those photos and videos for that purpose.

It is hereby **ORDERED**:

- 1. Appellant's objection is overruled.
 - a. JX2 the parties' Joint Stipulation Regarding Admissibility of Exhibits at The July 16, 2024 Evidentiary Hearing – states, in pertinent part: "The Parties stipulate to the admissibility of all exhibits contained on the Joint Exhibit List for the July 16, 2024 Evidentiary Hearing attached hereto as 'JX3'."
 - b. JX3 includes, as JX1, the Appeal Book of HISA.

- c. JX1, among other Exhibits, was admitted into evidence at the July 16, 2024 evidentiary hearing.
- d. Appellant's objection to "e.g., JX1 at 674, 675, 677, 678, 682, 690, 692" is untimely and, on its face unspecific as to the parts of JX1 sought to be objected to, as well as inconsistent with Appellant's agreement in JX2.
- e. Furthermore, HISA Rule 1.146(a)(1) provides that, "[e]xcept for good cause shown, no assignment of error by the aggrieved party may rely on any question of fact or law not presented to the Authority." No objection to any of the photos in JX1 was interposed during the arbitration or at any point prior to Appellant seeking to assert one in the Joint Stipulation. Appellant has failed to show "good cause" for her belated objection.
- 2. The objection Appellant seeks to assert in the Joint Stipulation goes, at best, to the weight of any photo or video listed in the Joint Stipulation or contained in JX1, and may be so argued, if appropriate and Appellant sees fit, in her post-hearing briefs.

ORDERED:

Jay L. Himes

Jay L. Himes Administrative Law Judge

Date: July 30, 2024