

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9430**

ADMINISTRATIVE LAW JUDGE: DANIA L. AYOUBI

IN THE MATTER OF:

**W. BRET CALHOUN
APPELLANT**

**JOINT MOTION FOR AGREED DISPOSITION AND DISMISSAL
WITH PREJUDICE**

Appellant W. Bret Calhoun (“**Mr. Calhoun**”), the Horseracing Integrity and Safety Authority, Inc. (the “**Authority**”), and the Horseracing Integrity & Welfare Unit (the “**Agency**”) (collectively, the “**Parties**”) jointly move for an agreed disposition of this matter.

In advance of the filing of this Motion, the Parties agreed that the Notice of Sanctions imposed against Mr. Calhoun on April 18, 2024 for the violation of Authority’s Anti-Doping and Medication Control (“**ADMC**”) Program Rule 3312 shall be withdrawn and the Charge for that violation shall be dismissed with prejudice. The disposition will be as follows:

- The Final Decision of the Internal Adjudication Panel (“**IAP**”) is SET ASIDE.
- The Notice of Sanctions against Mr. Calhoun, including the Disqualifications of race results for the Covered Horses *Tatanka* and *Ain’t Broke* on September 14, 2023 and September 21, 2023, respectively, is WITHDRAWN by the Agency.

Upon issuance of the Agreed Disposition and Dismissal with Prejudice by the Administrative Law Judge, the following shall occur:

- Mr. Calhoun will be reimbursed for any costs related to Sample testing;
- The 1.5 penalty points assigned to Mr. Calhoun will be revoked;

- The Kentucky Horse Racing and Gaming Corporation and Churchill Downs will be informed that the Charge against Mr. Calhoun has been dismissed and all purses can be distributed according to the original results of the races at issue that took place on September 14, 2023 (for Covered Horse *Tatanka*) and September 21, 2023 (for Covered Horse *Ain't Broke*); and
- The withdrawal of the Notice of Sanctions and dismissal of the Charge will be publicly announced on the Agency's website.

BACKGROUND

On April 17, 2024, IAP Member Hilary Patricia Forde issued a Final Decision finding that Mr. Calhoun had violated ADMC Program Rule 3312 and imposed Consequences pursuant to the Rules of the ADMC Program. On April 18, 2024, the Agency served a Notice of Sanctions upon Mr. Calhoun.

On May 1, 2024, Mr. Calhoun appealed the decision to the Federal Trade Commission by filing an application for *de novo* review by an Administrative Law Judge (the “**Application for Review**”). The Application for Review was granted by this Court, and an evidentiary hearing is currently scheduled for September 30, 2024.

After the Application for Review was filed, Mr. Calhoun submitted additional information to the Agency regarding the A Sample analysis of both Covered Horses' Samples by the University of Kentucky Equine Analytical Chemistry Laboratory (“**UK-EACL**”), and the Agency discovered additional information about UK-EACL's analysis of the Samples at issue through consultation with scientific experts and its investigation of the performance of UK-EACL under the ADMC Program. As a result of this new information, which was not available before the Final Decision was issued by the IAP Member, the Agency has determined that the results of these Samples should not be pursued as Adverse Analytical

Findings, and the corresponding Charge served upon Mr. Calhoun should be dismissed. The Final Decision is therefore set aside.

Thus, the Parties have agreed that the Notice of Sanctions imposed against Mr. Calhoun for the violation of ADMC Program Rule 3312 shall be withdrawn and the Charge for that violation shall be dismissed with prejudice. As a result, the Parties are filing this Joint Motion for Agreed Disposition and Dismissal with Prejudice.

Accordingly, the Parties respectfully request that this Court grant this Motion and enter the disposition set forth in the Proposed Order attached as Exhibit A hereto.

Dated: September 18, 2024.

Respectfully submitted,

/s/ Joseph C. DeAngelis

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EXHIBIT A

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9430**

ADMINISTRATIVE LAW JUDGE: DANIA L. AYOUBI

IN THE MATTER OF:

**W. BRET CALHOUN
APPELLANT**

**[PROPOSED] ORDER OF AGREED DISPOSITION AND DISMISSAL
WITH PREJUDICE**

On April 17, 2024, Internal Adjudication Panel (“IAP”) Member Hilary Patricia Forde issued a decision finding that W. Bret Calhoun (“**Mr. Calhoun**”) had violated Rule 3312 of the Authority’s Anti-Doping and Medication Control Program (“**ADMC Program**”) and imposed Consequences pursuant to the Rules of the ADMC Program. On April 18, 2024, the Horseracing Integrity & Welfare Unit (the “**Agency**”) served a Notice of Sanctions upon Mr. Calhoun.

On May 1, 2024, Mr. Calhoun appealed the decision to the Federal Trade Commission by filing an application for *de novo* review by an Administrative Law Judge (the “**Application for Review**”). The Application for Review was granted by this Court, and an evidentiary hearing is currently scheduled for September 30, 2024.

Based upon information received and discovered after the Application for Review was filed, the Horseracing Integrity and Safety Authority, the Agency and Mr. Calhoun (collectively, the “**Parties**”) agreed that the Notice of Sanctions imposed against Mr. Calhoun for the violation of ADMC Program Rule 3312 would be withdrawn and the Charge for that violation would be dismissed with prejudice.

As a result, the Parties filed a Joint Motion for Agreed Disposition and Dismissal with Prejudice seeking the following disposition:

- The Final Decision of the IAP be SET ASIDE.
- The Notice of Sanctions against Mr. Calhoun, including the Disqualifications of race results for the Covered Horses *Tatanka* and *Ain't Broke* on September 14, 2023 and September 21, 2023, respectively, be WITHDRAWN.

The Joint Motion further stated that, upon issuance of such Order, the following shall occur:

- Mr. Calhoun will be reimbursed any costs related to Sample testing;
- The 1.5 penalty points assigned to Mr. Calhoun will be revoked;
- The Kentucky Horse Racing and Gaming Corporation and Churchill Downs will be informed that the Charge against Mr. Calhoun has been dismissed and all purses can be distributed according to the original results of the races at issue that took place on September 14, 2023 (for Covered Horse *Tatanka*) and September 21, 2023 (for Covered Horse *Ain't Broke*); and
- The withdrawal of the Notice of Sanction and dismissal of the Charge will be publicly announced on the Agency's website.

IT IS HEREBY ORDERED that the Joint Motion for Agreed Disposition and Dismissal With Prejudice, dated September 18, 2024, is **GRANTED**. The Final Decision of the IAP is **SET ASIDE**. The Notice of Sanctions against Mr. Calhoun, including the Disqualification of the race results for the Covered Horses *Tatanka* and *Ain't Broke*, is **WITHDRAWN**. This matter is **REMANDED** to the Agency with directions to **DISMISS** the Charge with prejudice and to take the additional actions set forth above.

ORDERED:

DANIA L. AYOUBI
Administrative Law Judge

Dated: September __, 2024

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2024, pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), I caused the foregoing to be filed and served as follows:

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