

**BEFORE THE FEDERAL TRADE COMMISSION****In the matter of FTC DOCKET NO. D09438****HIWU****Vs.****Michael Hewitt (Trainer)****MICHAEL HEWITT'S PROPOSED FINDINGS OF FACT**

1. At no time did CP receive written notice from HIWU stating the date, time and place of the B sample opening; [ROA 158-159; 158 Line 24; 159 Line 1]
2. At no time did CP receive verbal notice from HIWU stating the date, time and place of the B sample opening; [ROA 198]
3. At no time did CP receive actual notice of any kind from HIWU with regard to the date, time and place of the B sample opening; [ROA 198]
4. HIWU charged CP with three separate alleged Presence violations involving three separate horses. In each of the other two alleged Presence cases, CP received an e-mail from HIWU notifying when and where the B Sample would be opened and at what time [ROA 170; ROA 185]. The e-mails invited CP to witness the opening;
5. In each of the other two alleged Presence cases brought against the CP, the associated B sample testing failed to confirm Presence; [ROA 170; ROA 185]
6. Had CP been afforded the opportunity to witness the opening, CP would have been in position to recognize whether the signature on the B Sample was his signature. CP would have been able to observe whether the B Sample had been "messed with" or otherwise contaminated [ROA 175].

7. Had CP been afforded the opportunity to witness the opening, CP would have been able to confirm the signature and thus be reasonably satisfied the sample arriving was the same sample shipped [ROA175]
8. Talked a dozen times with HIWU representative concerning the three different cases [ROA 180];
9. At no time during the dozen or so phone calls was CP ever verbally advised by HIWU of the date, time and place for the opening of the B Sample. At no time did Mr. Hewitt interpret Ms. Heath's words to be an invitation to witness the opening at a specific date, time and place [ROA 198];
10. This case involving "Shack's Way" was more important to CP than the others. This case involved significantly more money, \$18,000. The procedural sanctity of this matter and the underlying desire to exercise rights meant more to CP on the "Shack's Way" case than on the other two cases [ROA 190];
11. CP recalls receiving notice of the other two alleged Adverse Analytical Findings being unconfirmed *before* receiving notice that the "Shack's Way" AAF had been confirmed [ROA 192];
12. Had CP been afforded the opportunity to witness the opening, he would have availed himself to the opportunity because of the importance place on the case by him [FOF 10; ROA 174].

WHEREFORE, premises considered, Trainer Michael Hewitt prays these proposed Findings of Fact be adopted.

/s/ John Mac Hayes

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John Mac Hayes, OBA#15512  
1601 S. Victor Avenue  
Tulsa, OK 74104  
(405) 826-7793  
JohnMacHayesLaw@aol.com  
**ATTORNEY FOR MICHAEL HEWITT**

**CERTIFICATE OF SERVICE**

This is to certify that on this 19th day of November 2024, a true and correct copy of the above and foregoing document was e-mailed to the following interested parties:

HIWU Counsel  
Christy Heath  
John Forgy

/s/ John Mac Hayes