

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
Office of Administrative Law Judges

ADMINISTERED BY JAMS, CASE NO. 1501000648

In the matter of

JIM IREE LEWIS,

Appellant

v.

HORSERACING INTEGRITY WELFARE UNIT

Appellee.

EAD 2023-32

NOTICE OF APPEAL AND APPLICATION FOR REVIEW

Pursuant to 15 U.S.C. 3501 et seq., including 15 U.S.C. 3058(b)(2)(B) and 16 C.F.R. 1.145 et seq., 16 C.F.R. 1.146, aggrieved Appellant, Jim Iree Lewis ("Appellant") hereby gives notice of his appeal to the Federal Trade Commission ("FTC") regarding the decision of the Arbitrator (EAD 2023-32). This decision disqualifies the victory of the Covered Horse on the day in question, suspends the Covered Horse for a period of 14 months, suspends Appellant for a period of two years, and imposes a \$15,000 fine and \$5,000 in adjudication costs on Appellant.

1. Procedural Deficiencies

The Arbitrator reach his decision following a process which lacked guaranteed protections under Rule 7260. Specifically, the Arbitrator based his decision on the testimony of Dr Kynch that "it is very un the Clenbuterol found in [the Covered Horse's] blood sample collected on July 8, 2023, could have resulted from the horse being administered Clenbuterol before May 21, 2023." Final Decision ¶8.18. This testimony seemingly led the Arbitrator to conclude that the Appellant "failed to prove how the Clenbuterol had entered his horse's system." Final Decision ¶8.21-22.

This testimony notwithstanding, Appellant was denied the opportunity, at several instances throughout the process, to obtain evidence or testimony to the contrary. First, the Appellant repeatedly asked that a hair sample be taken to ascertain the timing of the horse's exposure to Clenbuterol. While this process has been used in at least one other case to demonstrate that the administration of Clenbuterol occurred prior to a trainer's control, Appellant's requests were denied. Second, HIWU's expert witness testimony was likely

incomplete in that Dr. Kynch's research does not include recent synthetic developments of compound Clenbuterol, which can remain in a horse's system for significantly longer periods of time.

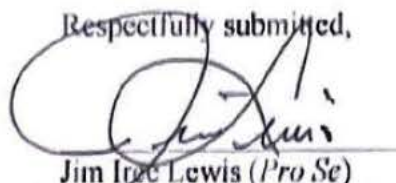
On *de novo* review, Appellant seeks only to reduce the significant fine levied against him on the grounds that he will have established that he "bears No Significant Fault or Negligence for the Anti-Doping Rule Violation in question" Rule 3225.

2. Request for Evidentiary Hearing and Stay of Sanctions

Pursuant to 16 C.F.R. 1.146(a)(1), Appellant requests an evidentiary hearing to contest the Arbitrator's claimed findings and supplement the record with additional evidence and testimony. Specifically, Appellant intends to provide evidence and/or testimony regarding prior cases where analysis of hair samples, have proven that Clenbuterol was administered prior to a trainer's control, at lengths of time exceeding the timeframe testified to by Dr. Kynch, as well as evidence and/or testimony regarding recent developments in synthetic forms of compound Clenbuterol which are metabolized at significantly slower rates than natural Clenbuterol.

Finally, pursuant to 16 C.F.R. 1.148, Appellant requests a stay of the \$15,000 fine and \$5,000 adjudication costs during the pendency of ALJ's review.

Respectfully submitted,



Jim Irac Lewis (*Pro Se*)



CERTIFICATE OF SERVICE

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of the forgoing is being served this 8th day of July, 2024 via First Class mail and electronic mail upon the following:

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue NW
Suite CC-5610 Washington, DC 20580

Hon. D. Michael Chappell
Chief Administrative Law Judge
Office of Administrative Law Judges
Federal Trade Commission
600 Pennsylvania Avenue, NW

Washington, DC 20580

(Courtesy copies via e-mail to oali@ftc.gov and electronicfilings@ftc.gov)

Charles P. Scheeler

Chair, Board of Directors Horseracing Integrity and Safety Authority

401 West Main Street, Suite 222

Lexington, KY 40507

charles.scheeler@dlapiper.com

Horseracing Integrity & Welfare Unit

4801 Main Street, Suite 350

Kansas City, Missouri 64112-274



Fine Payment Instructions

Pay Online on HISA (portal.hisausapps.org) OR

- Covered Person logs into the HISA portal at portal.hisausapps.org using their username and password
- Select "My Information" and scroll down to Rulings section for outstanding fines owing
- Ensure the email address is completed and saved
- Click on "Pay Fines" to begin payment
- Credit Card, ACH Bank Debit, Google Pay, Apple Pay accepted
- No fees to make a payment

Pay by Check:

SEND CHECK PAYMENTS AT LEAST 15 DAYS BEFORE THE DUE DATE TO ALLOW TIME FOR MAIL DELIVERY AND MANUAL PAYMENT PROCESSING. INCOMPLETE INFORMATION WILL INCREASE PROCESSING TIMES.

A Covered Person must include the following 2 items in the envelope sent to HISA:

- A check covering the full amount payable to HISA.
- A copy of the Ruling Form that includes HISA#xxx-xxx-xxx - either the Stewards Ruling Form, or a ruling that has been provided by the Racing Safety Committee, HISA board, National Stewards panel, or other Arbitral body assigned by HISA.

HISA mailing Address:

Horseracing Integrity and Safety Authority
401 W Main Street, Suite 222
Lexington, Kentucky
40507

PLEASE NOTE: ALL PAYMENTS ARE DUE WITHIN THE SPECIFIED DAYS OF THE RULING (default is 30 days unless noted otherwise). FAILURE TO PAY BY THE DUE DATE MAY RESULT IN SUSPENSION. YOU ARE ADVISED TO PAY ONLINE OR SEND CHECKS AT LEAST 15 DAYS BEFORE THE DUE DATE TO ALLOW TIME FOR MAIL DELIVERY AND MANUAL PAYMENT PROCESSING. INCOMPLETE INFORMATION WILL INCREASE PROCESSING TIMES.



NOTICE OF FINAL CIVIL SANCTIONS UNDER THE ADMC PROGRAM

June 12, 2024

SENT VIA EMAIL jimireelewis@gmail.com

Jim Iree Lewis

**Re: EAD2023-32/EAD Charge of ADMC Program Rule 3212
Covered Horse: Hughie's Holiday**

This serves as notice to you, Jim Iree Lewis, that the Horseracing Integrity & Welfare Unit (HIWU) is imposing the following Consequences against you under the Anti-Doping and Medication Control (ADMC) Program in accordance with the enclosed final decision of the Arbitral Body and pursuant to 15 U.S.C. 3057(d):

1. A period of Ineligibility of two (2) years, as described in ADMC Program Rule 3223, beginning on September 22, 2023 (the date that a Provisional Suspension was imposed against you), and continuing through September 21, 2025;
2. A period of Ineligibility for Hughie's Holiday of fourteen (14) months, beginning on July 8, 2023, and continuing through September 7, 2024, in accordance with ADMC Program Rule 3222;
3. Disqualification of Hughie's Holiday's Race results pursuant to ADMC Program Rule 3221, which he obtained on July 8, 2023, with resulting Consequences of Disqualification of results including forfeiture of all purses and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
4. A fine of \$15,000 in accordance with ADMC Program Rule 3223;
5. Payment of \$5,000 of adjudication costs in accordance with ADMC Program Rule 3223; and
6. Public Disclosure in accordance with ADMC Program Rule 3620.

This matter involves the presence of a Banned Substance and/or its Metabolites or Markers (ADMC Program Rule 3212) in a Post-Race Sample—Clenbuterol. The Banned Substance was found to be present in a blood Sample collected from Hughie's Holiday at a Covered Horserace conducted at Ruidoso Downs in Ruidoso, New Mexico on July 8, 2023.



Review of a Final Decision and its accompanying Consequences by a federal Administrative Law Judge is available under 15 U.S.C. 3058. You will also receive a copy of the notice to the Federal Trade Commission ("FTC") of these civil sanctions. Pursuant to 15 U.S.C. 3058(b)(1), review of the decision must be requested within thirty (30) days of HISA's notice to the FTC. A stay of the Consequences set forth above will only be imposed if such a stay is requested from, and approved by, the applicable Administrative Law Judge.

The Consequences set forth above are effective immediately, and any financial penalties imposed, or payments required under the Arbitration Procedures, must be paid in accordance with the Final Decision of the Arbitral Body.

Please also be advised that a copy of this Notice or a summary thereof will be published on HIWU's website.

Horseracing Integrity & Welfare Unit

A handwritten signature in black ink, appearing to read "M. Pujals", is written over a horizontal line.

Michelle Pujals, HIWU General Counsel

Encs.: Final Decision of Arbitral Body
Instructions for HISA Portal

cc (w/ encs.): Lexy Gross Holland and C. Williamson Matthews, Counsel for Mr. Lewis
Andres Egurola, Owner
New Mexico Racing Commission
HISA

**BEFORE THE HORSERACING INTEGRITY AND SAFETY AUTHORITY'S ANTI-DOPING AND
MEDICATION CONTROL PROGRAM ARBITRATION PANEL**

Administered by JAMS, Case No. 1501000648

In the Matter of the Arbitration Between:

HORSERACING INTEGRITY WELFARE UNIT ("HIWU" or "Claimant"),

Claimant,

v.

JIM IREE LEWIS ("Trainer Lewis" or "Respondent"),

Respondent.

FINAL DECISION (CORRECTED)

I, THE UNDERSIGNED ARBITRATOR, having been designated, and having been duly sworn, and having duly heard the allegations, arguments, submissions, proofs, and evidence submitted by the Parties, and after a full evidentiary hearing occurring on Zoom in Dallas, Texas, on April 18, 2024, pursuant to the Horseracing Integrity and Safety Act of 2020 and its implementing regulations, do hereby FIND and DECIDE as follows:

1. INTRODUCTION

1.1 This case involves allegations of the presence of a Prohibited Substance in a horse Mr. Lewis was responsible for. It involves allegations of an Adverse Analytical Finding ("AAF") and Anti-Doping Rule Violation ("ADRV") for the presence of the Prohibited Substance Clenbuterol found in the blood sample of a single horse. Respondent was the trainer of the horse.

1.2 HIWU is the United States government-recognized entity responsible for sample collection and results management in the anti-doping testing of thoroughbred racehorses in the United States, pursuant to the Horseracing Integrity Act of 2020, 15 U.S.C. secs. 3051-3060. HIWU was represented by Brent Rychener and David George of Bryan Cave Leighton Palsner LLP and Zachary Ceriani of HIWU.

1.3 Mr. Lewis is a trainer of thoroughbred racehorses based currently at Ruidoso Downs Racetrack in Ruidoso, New Mexico. Mr. Lewis was represented in these proceedings by Lexy Holland and Will Mathews of Wyatt, Tarrant and Combs LLP.

2. STIPULATED FACTS

THE FACTS ACCORDING TO HIWU

2.1 Below is a summary of the relevant facts and allegations based on the parties' written submissions, pleadings, and evidence adduced at the hearing. Additional facts and allegations found in the parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Arbitrator has considered all of the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, the Arbitrator refers in this Final Decision only to the submissions and evidence the Arbitrator considers necessary to explain his reasoning. Except as noted, the facts are generally not in dispute, though the legal effect of those facts might be.

2.2 On July 8, 2023, Trainer Lewis's horse, Hughie's Holiday, competed in Race 7 at Ruidoso.

2.3 Following the race, Hughie's Holiday was subject to doping control and a blood sample was collected bearing #B100284546. Analytical testing of the blood sample was conducted by Industrial Laboratories ("Industrial") in Denver, Colorado, and resulted in a reported Adverse Analytical Finding ("AAF") for Clenbuterol.¹

2.4 Trainer Lewis was notified on August 10, 2023, that Hughie's Holiday's A Sample had returned an AAF for Clenbuterol.²

2.5 On August 13, 2023, Trainer Lewis opted to have the B Sample tested.

¹ Agency Exhibit (AE), AE-1, p. 6.

² AE-1.

2.6 The B Sample was analyzed by the Pennsylvania Equine Toxicology and Research Laboratory ("PETRL") in West Chester, Pennsylvania, and the PETRL analysis confirmed the presence of Clenbuterol in the B Sample.³

2.7 On September 22, 2023, Trainer Lewis was charged with an ADRV.⁴

2.8 Pursuant to Rule 3247(a)(1), a Provisional Suspension was imposed on Trainer Lewis, effective September 22, 2023.

THE FACTS ACCORDING TO LEWIS

2.9 Lewis did not administer Clenbuterol to Hughie's Holiday.

2.10 Lewis has trained thoroughbred horses and quarter horses for over 40 years to race at tracks in the Southwest United States.

2.11 Lewis operates a small training operation and limits the number of horses being trained at any one time to less than 10, and he is not supported by his work as a trainer.

2.12 Lewis has never violated a local, state or federal law or regulation, and this proceeding is the first time he has ever been accused of doing so.

2.13 The horse in question, Hughie's Holiday, was owned by Andres Egurrola and was purchased from Rodolfo ("Rudy") E. Romero.

2.14 Lewis was asked to train the horse but received no medical records concerning prior treatment of the horse.

2.15 Romero refused to respond to Lewis's questions about prior treatment of the horse and has violated horse safety regulations on more than one occasion.

2.16 Lewis attended a meeting at Ruidoso Downs conducted by the HISA and/or the HIWU in early summer 2023, where the use of Clenbuterol and the 21-day time period following therapeutic treatment before racing a horse was discussed.

³ AE-2, p. 9.

⁴ AE-2.

2.17 Lewis waited 50 days to race the horse out of an abundance of caution because he had no records of prior therapeutic treatment.

2.18 After winning a claiming race on July 8, 2023, at Ruidoso Downs the horse was taken to the testing barn where blood samples and urine were to be drawn.

2.19 The water bucket given to Lewis to cool the mare was dirty, and Lewis asked the testing official to clean the bucket; his request was refused.

2.20 Lewis attempted to clean the bucket before cooling the horse down.

2.21 HISA officials took blood and urine samples, but no hair samples from Hughie's Holiday.

2.22 After the mare's winning cleared and before Lewis was notified of her test results, HISA took blood and urine samples from all of the horses, both thoroughbred and quarter, that Lewis was training.

2.23 On August 10, 2023, 32 days after the race in question, Lewis received notice of an alleged Anti-Doping Rule Violation.

2.24 Hughie's Holiday was purchased by Andres Egurrola in May of 2023 from Rudolfo ("Rudy") E. Romero, Jr.

2.25 Hughie's Holiday arrived in Mr. Lewis's possession, as Hughie's Holiday's trainer, on May 21, 2023.

2.26 Hughie's Holiday, trained by Mr. Lewis, ran in a claiming race at Ruidoso Downs on July 8, 2023. She came in first place during that race.

2.27 A post-race blood sample, #B100284546, was collected from Hughie's Holiday.

2.28 The blood sample was divided into two portions designated as the "A Sample" and the "B Sample."

2.29 Analytical testing on the A Sample was conducted by Industrial Laboratories in Denver, Colorado ("Industrial").

2.30 Mr. Lewis was notified on August 10, 2023, that Hughie's Holiday's A Sample had returned an Adverse Analytical Finding ("AAF") for Clenbuterol by Industrial.

2.31 On August 13, 2023, Mr. Lewis opted to have the B Sample tested.

2.32 The B Sample was analyzed by the Pennsylvania Equine Toxicology and Research Laboratory ("PETRL") in West Chester, Pennsylvania.

2.33 On September 22, 2023, Mr. Lewis was notified that the B Sample analysis by PETRL had confirmed the presence of Clenbuterol and he was charged with an anti-doping rule violation ("ADRV").

2.34 A Provisional Suspension was imposed on Mr. Lewis, effective September 22, 2023.

2.35 Mr. Lewis complied with all requests from HIWU related to its investigation of the charge at issue in this case.

2.36 There are no pending violations at this time related to Samples taken from Covered Horses, other than Hughie's Holiday, that Mr. Lewis trained or resulting from the August 10, 2023, search conducted by HIWU officials.

2.37 Mr. Lewis has never admitted fault for the AAF that is the source of the violations alleged in this case.

FACTS REGARDING JAMS PROCEEDING

2.38 On November 15, 2023, HIWU initiated this binding arbitration proceeding.

2.39 The preliminary arbitration management conference call was held on December 7, 2023.

2.40 Procedural Order No. 1, dated December 18, 2023, set a deadline of January 8, 2023, for Trainer Lewis's pre-hearing brief, witness disclosures and exhibits. This deadline was extended to February 12, 2024, at the request of Trainer Lewis's newly retained counsel.

3. JURISDICTION AND APPLICABLE LAW

3.1 The Horseracing Integrity and Safety Authority, Inc. ("HISA" or "Authority") was created pursuant to the federal *Horseracing Integrity and Safety Act of 2020*, as amended (the "Act")⁵ to implement a national, uniform set of rules applied consistently to every thoroughbred racing participant and racetrack facility in the United States. The ADMC Program Rule 3010(a) states:

(a) The Horseracing Integrity and Safety Act of 2020 ("the Act") mandates and empowers the Horseracing Integrity and Safety Authority ("Authority") to establish a uniform anti-doping and controlled medication program to improve the integrity and safety of horseracing in the United States ("Program").

3.2 HIWU was established in 2022 as a division of Drug Free Sport, LLC, to administer the rules and enforcement mechanisms of the Authority's ADMC Program,⁶ which was created pursuant to the Act, approved by the Federal Trade Commission on March 27, 2023, and went into effect on May 22, 2023.

3.3 HIWU's implementation and enforcement power is set out in the ADMC Program, including Rules 3010(b) and 3010(e)(1):

The [ADMC] Protocol will be implemented and enforced on behalf of the Authority by the Agency, which has created an entity designated as the Horseracing Integrity and Welfare Unit ("Agency").

...

(b) This Equine Anti-Doping and Controlled Medication Protocol ("Protocol") has been developed and issued by the Authority as part of that mandate. It contains or incorporates by reference rules, standards, and procedures to improve and protect the integrity and safety of horseracing in the United States by deterring and penalizing the improper administration or application of Prohibited Substances and Prohibited Methods to Covered Horses.

...

(e) The Protocol will be implemented and enforced on behalf of the Authority by:

(1) an anti-doping and controlled medication enforcement agency known as the Horseracing Integrity and Welfare Unit ("Agency") ...⁷

⁵ *Horseracing Integrity and Safety Act of 2020*, 15 U.S.C. 3051-3060, ALA-2.

⁶ *Rules of Interpretation*, 88 Fed. Reg. Vol. No. 17, 5070, ALA-1.

⁷ ALA-1, pp. 22-23.

3.4 The anti-doping regulations under the ADMC Program are designed to enhance the safety and wellbeing of both horses and racing participants while ensuring the integrity of the sport for the benefit of the industry, fans and bettors. ADMC Program Rule 3010(d) notes that the ADMC Program reflects and incorporates the fundamental principle that "Covered Horses should compete only when they are free from the influence of medications, other foreign substances, and treatment methods that affect their performance."⁸

3.5 The ADMC Program has a broad application. It "applies to and is binding on," Covered Persons, defined as including "Trainers, Owners, Breeders, Jockeys, Racetracks, Veterinarians ... and any other horse support personnel who are engaged in the care, treatment, training, or racing of Covered Horses" (among others).⁹

3.6 Trainer Lewis is the Trainer of the Covered Horse, Hughie's Holiday. He is therefore both a Covered Person under Rule 3020(a)(3) and a Responsible Person under Rule 3030(a). Trainer Lewis does not dispute jurisdiction in his pre-hearing submission.

3.7 Rule 7000 Series sets out the arbitration procedures governing a charged Violation of the ADMC Program. Where, as here, HIWU issues a Charge Letter to a Covered Person, arbitral proceedings are initiated pursuant to ADMC Program Rule 7060 (Arbitration Procedures).

3.8 In accordance with the above, JAMS has jurisdiction to adjudicate this dispute.

3.9 These proceedings are governed exclusively by the ADMC Program. Preamble Section 3 and Rule 3010(f) expressly state that the ADMC Program pre-empts state laws and Rule 3070(b) provides that the ADMC Program "shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes."¹⁰

⁸ ALA-1, p. 22.

⁹ ADMC Program Rule 1010, 3020, ALA-1, pp. 23-24

¹⁰ ALA-1, p. 27.

3.10 Importantly, Rule 3070(d) provides that the World Anti-Doping Code ("Code")¹¹ and jurisprudence interpreting its provisions may be considered when interpreting and applying the ADMC Protocol:

(d) The World Anti-Doping Code and related International Standards, procedures, documents and practices (WADA Code Program), the comments annotating provisions of the WADA Code Program, and any case law interpreting or applying any provisions, comments or other aspects of the WADA Code Program, may be considered when adjudicating cases relating to the Protocol, where appropriate.

3.11 The jurisprudence interpreting and applying the Code is, therefore, an important tool at the disposal of the Arbitrator. There is a longstanding, well-established, and rich body of international anti-doping jurisprudence from specialized sporting arbitral tribunals, including the American Arbitration Association ("AAA") at the national level and the Court of Arbitration for Sport (the "CAS") at the international level, which informs the interpretation of the ADMC Program.

4. THE PARTIES' CONTENTIONS AND CLAIMS FOR RELIEF

4.1 Trainer Lewis has committed a presence-based ADRV. It is not disputed that Trainer Lewis is a Responsible Person or that Hughie's Holiday is a Covered Horse under the ADMC Program.

4.2 Trainer Lewis breached ADMC Program Rule 3212(a), under which the presence of a Prohibited Substance in a Covered Horse is a strict liability offense for which the "intent, Fault, negligence, or knowing Use on the part of the Responsible Person" is not required to establish a violation:

(a) It is the personal and non-delegable duty of the Responsible Person to ensure that no Banned Substance is present in the body of his or her Covered Horse(s). The Responsible Person is therefore strictly liable for any Banned Substance or its Metabolites or Markers found to be present in a Sample collected from his or her Covered Horse(s). Accordingly,

¹¹ The preamble to the ADMC Program explains that the Authority considered and relied heavily on international doping standards, including the World Anti-Doping Code, which "provide a robust anti-doping framework that has been tested before arbitration tribunals for many years" and which "has generated a well-developed body of precedent and guidance for interpreting the provisions." See Self-Regulatory Organization's Statement of the Terms of Substance of the Registration Proposed Rule and Discussion Alternatives, 88 Fed. Reg. Vol. No. 17, 5073 ALA-1, p. 4. The 2021 World Anti-Doping Code is submitted as ALA-5.

It is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3212 Anti-Doping Rule Violation.¹²

4.3 HIWU has the burden of establishing a Presence Based violation to the “comfortable Satisfaction” of the Arbitrator.¹³ Under Rule 3212(b), sufficient proof of a Rule 3212 violation is established by the following:

(1) the presence of a Banned Substance or its Metabolites or Markers in the Covered Horse’s A Sample where the Responsible Person waives analysis of the B Sample and the B Sample is not analyzed;

(2) the Covered Horse’s B Sample is analyzed and the analysis of the B Sample confirms the presence of the Banned Substance or its Metabolites or Markers found in the A Sample; or

(3) where, in exceptional circumstances, the Laboratory (on instruction from the Agency) further splits the A or B Sample into two parts in accordance with the Laboratory Standards, the analysis of the second part of the resulting split Sample confirms the presence of the same Banned Substance or its Metabolites or Markers as were found in the first part of the split Sample, or the Responsible Person waives analysis of the second part of the split Sample.¹⁴

4.4 As set out above, the B Sample Analysis confirmed the presence of Clenbuterol. As a result, the ADRV is established under Rule 3212(b)(2).

4.5 In his pre-hearing submission, Trainer Lewis does not challenge the laboratory findings of the presence of Clenbuterol in the horse’s A Sample and the confirmation of the presence of Clenbuterol in the horse’s B Sample. This is all that is needed to establish an ADRV under Rule 3212(b)(2).

4.6 While not challenging the laboratory findings, Trainer Lewis complains that proper procedures were not followed in the collection of the horse’s Samples. Specifically, Lewis says the horse’s “water bucket was dirty,” the testing barn “was not clean, sterile, or organized,” and

¹² ALA-1, p. 30.

¹³ ADMC Program, Rule 3121, provides: “This standard of proof in all cases is greater than a mere balance of probability (i.e., a preponderance of the evidence) but less than clear and convincing evidence or proof beyond a reasonable doubt.” ALA-1, p. 28.

¹⁴ ALA-1, p. 30.

Person or other Person on any basis, including any challenge based on an argument that the substance or method is not a masking agent or does not have the potential to enhance the performance of Covered Horses or have a detrimental impact on horse welfare.”

4.11 Thus, the Rules make clear that the confirmed presence of Clenbuterol in a horse’s sample is an ADRV and is not subject to any defense that the substance did not enhance the horse’s performance.

4.12 Trainer Lewis also asserts that the facts of this case “do not support a finding that a prohibited substance entered Hughie’s Hollday’s system with Mr. Lewis’s knowledge or intent.” Lewis Pre-Hearing Brief at 9. This is irrelevant. As stated above, the presence of a Prohibited Substance in a Covered Horse is a strict liability offense for which the “intent, Fault, negligence, or knowing Use on the part of the Responsible Person” is not required to establish a violation.¹⁵

4.13 Finally, Trainer Lewis complains that HIWU did not agree to produce documents related to HIWU’s testing of other horses trained by Lewis and a search of the horse barns he uses. Such documents, related to separate investigations which did not result in any ADRV charges, are irrelevant to the single ADRV charged in this case – the presence of a Prohibited Substance, Clenbuterol, which is a strict liability violation under Rule 3212.

4.14 Clenbuterol is a Prohibited Substance. Pursuant to ADMC Program Rule 3223, the period of Ineligibility for a first anti-doping rule violation of ADMC Program Rule 3212 (Presence) is two (2) years of Ineligibility for a Covered Person.

4.15 Where a violation of the ADMC Program is established, the Respondent *may* be entitled to a mitigation of the applicable Consequences, only where he establishes on a balance of probabilities that he acted with either No Fault or Negligence, or No Significant Fault or Negligence.

4.16 Fault is defined in the ADMC Program as:

Any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a Covered Person’s degree of Fault

¹⁵ ALA-1, p. 30.

the testing officials sometimes would “take samples without wearing gloves.” Lewis Pre-Hearing Brief at 4-5, 10-11.

4.7 Trainer Lewis’s allegations – that certain HISA regulations relating to sample collection were not followed – provide no defense to the ADRV. ADMC Program Rule 3122(d) provides:

Departures from any other Standards or any provisions of the Protocol shall not invalidate analytical results or other evidence of a violation, and shall not constitute a defense to a charge of such violation; provided, however, that if the Covered Person establishes that a departure from any other Standards or any provisions of the Protocol could reasonably have caused the Adverse Analytical Finding or other factual basis for the violation charged, the Agency shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or other factual basis for the violation.

4.8 This provision makes clear that an alleged departure from the Protocol for Sample collection (e.g., Rule 5310(b)(1)(vii) regarding “clean water buckets”) “shall not constitute a defense” to an ADRV unless the Covered Person establishes that the departure “could reasonably have caused the Adverse Analytical Finding.” Trainer Lewis does not come close to satisfying his burden on this issue.

4.9 Trainer Lewis offers no explanation, other than pure, unstated speculation, as to how a dirty water bucket (which Trainer Lewis says he cleaned before Sample collection) might somehow have caused the Adverse Analytical Finding for the presence of Clenbuterol in Hughie’s Holiday’s sample. Even if Trainer Lewis actually asserted that the water bucket had somehow been contaminated by another horse in the testing barn just prior to the samples collected from Hughie’s Holiday, and he has not, the evidence at the hearing will dispel any such notion by showing that no other horse’s sample collected at Ruldoso resulted in an Adverse Analytical Finding.

4.10 Trainer Lewis also asserts there should be no ADRV because “the amount of Clenbuterol found in Hughie’s Holiday’s system could not possibly be said to mask pain or affect her performance.” Lewis Pre-Hearing Submission at 14. Again, this argument is precluded by the ADMC Program Rules – specifically, Rule 3113 provides that HISA’s determination of Prohibited Substances (e.g., any level of Clenbuterol) “shall not be subject to any challenge by any Covered

include (but are not limited to) the Covered Person's experience and special considerations such as impairment, the degree of risk that should have been perceived by the Covered Person, and the level of care and investigation exercised by the Covered Person in relation to what should have been the perceived level of risk. With respect to supervision, factors to be taken into consideration are the degree to which the Covered Person conducted appropriate due diligence, educated, supervised, and monitored Covered Persons (including veterinarians), employees, personnel agents, and other Persons involved in any way with the care, treatment, training, or racing of his or her Covered Horses, and created and maintained systems to ensure compliance with the Protocol. In assessing the Covered Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Covered Person's departure from the expected standard of behavior. Thus, for example, the fact that the Covered Person would lose the opportunity to earn large sums of money during a period of ineligibility, or the fact that the Covered Person or Covered Horse only has a short time left in a career, of the timing of the horseracing calendar, would not be relevant factors to be considered in reducing the period of ineligibility based on degree of Fault (emphasis added).¹⁶

4.17 Pursuant to this definition, the assessment of Fault is a specific and focused exercise which is concerned only with the Covered Person's actions leading up to the demonstrated violation of the ADMC Program. Ancillary considerations, such as the economic impact of the imposed sanctions after the fact, are not considered as relevant factors in reducing potential ineligibility based on degree of Fault.

4.18 ADMC Program Rule 3224 permits the reduction of sanctions where there is No Fault or Negligence. The relevant parts of the rule are below:

Rule 3224. Elimination of the Period of Ineligibility Where There Is No Fault or Negligence.

(a) If a Covered Person establishes in an individual case that he or she bears No Fault or Negligence for the Anti-Doping Rule Violation(s) charged, the otherwise applicable period of Ineligibility and other Consequences for such Covered Person shall be eliminated (except for those set out in Rule 3221(a) and Rule 3620) ...

(b) Rule 3224 only applies in exceptional circumstances ...¹⁷

¹⁶ ALA-1, p. 18.

¹⁷ ALA-1, p. 33.

4.19 No Fault or Negligence is defined in the ADMC Program as:

the Covered Person establishing that he or she did not know or suspect, and could not reasonably have known or suspected, even with the exercise of utmost caution, that he or she had administered to the Covered Horse (or that the Covered Horse's system otherwise contained) a Banned Substance or a Controlled Medication Substance, or that he or she had Used on the Covered Horse a Banned Method or a Controlled Medication Method, or otherwise committed an Anti-Doping Rule Violation or Controlled Medication Rule Violation. For any violation of Rule 3212 or Rule 3312, the Covered Person must also establish how the Prohibited Substance entered the Covered Horse's system in order to establish No Fault or Negligence.¹⁸

4.20 Importantly, to establish No Fault or Negligence, Covered Persons must establish that despite the exercise of the utmost caution, they could not have reasonably known or suspected that they were committing an Anti-Doping Rule Violation. It is a commonly established principle in international anti-doping regimes that No Fault or Negligence applies only in the most extreme and exceptional circumstances, and this sparing application has been acknowledged consistently in CAS jurisprudence, including in *Gabriel da Silva Santos v. Fina*:

The Panel is acutely aware of the fact that No Fault or Negligence cases are relatively few and far between, and that the applicable comments emphasize that the finding of No Fault or Negligence is to be reserved for the truly exceptional case.¹⁹

4.21 Thus, the standard to establish No Fault or Negligence is only for the most exceptional circumstances, demonstrating a near impossibility on behalf of Covered Persons to be able to reasonably suspect, or know, that they may be committing or at risk of committing an anti-doping rule violation.

4.22 ADMC Program Rule 3225 also allows for the reduction of sanctions where there is No Significant Fault or Negligence. The relevant parts of the rule are below:

Rule 3225. Reduction of the Period of Ineligibility Where There is No Significant Fault or Negligence.

¹⁸ ALA-1, p. 19.

¹⁹ *Gabriel da Silva Santos v. FINA*, CAS 2019/A/6482, at para. 66, ALA-3, p. 15.

Reductions under this Rule 3225 are mutually exclusive and not cumulative, i.e., no more than one of them may be applied in a particular case.

(a) General rule.

Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Anti-Doping Rule Violation in question, then ... the period of Ineligibility shall be fixed between 3 months and 2 years, depending on the Covered Person's degree of Fault.²⁰

4.23 No Significant Fault or Negligence is defined in the ADMC Program as:

The Covered Person establishing that his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the Anti-Doping Rule Violation or Controlled Medication Rule Violation in question. For any violation of Rule 3212 or 3312, the Covered Person must also establish how the Prohibited Substance entered the Covered Horse's system in order to establish No Significant Fault or Negligence.

4.24 The CAS has repeatedly and thoroughly discussed the concept of No Significant Fault, such as in *Maria Sharapova v. ITF*:

A period of ineligibility can be reduced based on NSF only in cases where the circumstances justifying a deviation from the duty of exercising the "utmost caution" are truly exceptional, and not in the vast majority of cases. However ... the "bar" should not be set too high for a finding of NSF. In other words, a claim of NSF is (by definition) consistent with the existence of some degree of fault and cannot be excluded simply because the athlete left some "stones unturned." As a result, a deviation from the duty of exercising the "utmost caution" does not imply per se that the athlete's negligence was "significant..."²¹

4.25 Finally, and importantly, in order to establish either No Fault or Negligence or No Significant Fault or Negligence, a Covered Person must establish the source of the Prohibited Substance: the "Covered Person must also establish how the Prohibited Substance entered the Covered Horse's system."²²

²⁰ ALA-1, P. 33.

²¹ *Maria Sharapova v. ITF*, CAS 2016/A/4643, at para. 84, ALA-4, p. 22.

²² Definition of No Fault and No Significant Fault in ADMC Program, ALA-1, P. 19.

4.26 HIWU submits that the evidence will not support a reduction in the applicable sanctions under the No Fault or Negligence or No Significant Fault or Negligence provisions of the ADMC Program.

4.27 As a threshold matter, Trainer Lewis fails to carry his burden to establish the source of the Prohibited Substance in the Covered Horse. While Lewis speculates that “any multitude of scenarios could have led to the adverse analytical finding of Clenbuterol in Hughie’s Holiday’s sample,” Lewis Pre-Hearing submission at 10, this does not come close to establishing affirmatively “how the Prohibited Substance entered the Covered Horse’s system.”

4.28 Trainer Lewis speculates that the Adverse Analytical Finding might have resulted from an administration of Clenbuterol, either under a veterinarian’s care or not, by the horse’s prior owner, Mr. Romero. Under this alleged scenario, the administration of Clenbuterol necessarily would have had to occur prior to Trainer Lewis’s taking possession of the horse on May 21, 2023, which was 49 days before the horse’s Samples were collected on July 8, 2023.

4.29 Trainer Lewis’s speculation, with no supporting evidence, does not sustain his burden to establish how Clenbuterol entered the horse’s system.

4.30 In any event, evidence at the hearing rebutted such speculation. Scientific studies show that Clenbuterol, even at the hypothetical levels of administration suggested by Trainer Lewis, would fall below the level of detection in a horse’s blood within 7-8 days from administration.²³ Dr. Heather Knych, an expert in equine pharmacology, pharmacokinetics and pharmacodynamics, will testify that it is highly unlikely that the Clenbuterol detected in Hughie’s Holiday’s blood samples collected on July 8, 2023, could have been caused by the administration of Clenbuterol prior to May 21, 2023.²⁴

4.31 Because Trainer Lewis cannot carry his burden to prove how the Clenbuterol entered the horse’s system, there can be no reduction in the applicable sanctions based on No Fault or Negligence or No Significant Fault or Negligence.

²³ See AE-5.

²⁴ See Expert Report of Dr. Knych.

4.32 This conclusion is supported by arbitration decisions applying similar provisions in the World Anti-Doping Code.

4.33 There have been numerous doping cases under the Code where athletes have strongly asserted their Innocence but were unable to establish how the Prohibited Substance entered their bodies and, as a result, the full sanction set forth in the Code was imposed. *See, e.g.:*

IRB v. Keyter, CAS 2006/A/1067:

[T]he good character evidence submitted by the Respondent cannot overcome the strict liability principle or satisfy the burden of proof. Such evidence cannot help the Respondent in establishing any feature of the ingestion of the prohibited substance. Perhaps, the good character might have helped the Respondent in reducing the sanction, but only after having proven, first, how the prohibited substance came into his body and, second, the absence of any significant fault or negligence.²⁵

Sesil Karatancheva v. International Tennis Federation, CAS 2006/A/1032:

Obviously, this precondition to establishing no fault or no significant fault must be applied quite strictly, since if the manner in which a substance entered an athlete's system is unknown or unclear it is logically difficult to determine whether the athlete has taken precautions in attempting to prevent any such occurrence.²⁶

FINA v. Villanueva, FINA Doping Panel 05/15:

The burden of proof lies with the Athlete who in this system must establish how the prohibited substance entered his system. Without establishing the likely method of ingestion, it would be difficult to properly and fairly consider the question of intent in relation to the conduct that led to the ingestion and that to decide otherwise would be to go against pre-2015 Code authority in this area. . . .

In this matter, the Athlete's inability to answer the question relevant to the manner in which the substance entered his system leaves the Panel no alternative but to consider he failed in discharging his burden of proof to allow him to argue the statutes through which a reduction of sanction may be contemplated. Did the athlete establish on the basis of a balance of probabilities how the substance entered his system? The answer can only be negative and leaves no room for any other application of the rules.²⁷

²⁵ ALA-6, p. 9 at § 6.12.

²⁶ ALA-7, p. 31 at § 117

²⁷ ALA-8, pp. 9-10 at § 6.9.

UCI v. Jana Horakova & CCF, CAS 2012/A/2760:

The CAS has constantly repeated that the requirement of showing how the prohibited substance got into one's system must be enforced quite strictly since, if the manner in which a substance entered an athlete's system is unknown or unclear, it is logically difficult to determine whether the athlete has taken precautions in attempting to prevent such occurrence (CAS 2007/A/1399, 17 July 2008). Consequently, the Tribunal made it clear in CAS 2006/A/1140 that the "threshold" requirement of showing how the substance entered the player's system was to enable the Tribunal to determine the issue of fault on the basis of fact and not mere speculation. In other words, the threshold requirement of proof of how the substance got into the system "meant not only that the player must show the route of administration – in this case probably oral ingestion – but that he must be able to prove the factual circumstances in which administration occurred." (CAS 2006/A/1140, 4 January 2007).

In the present case, the First Respondent's explanations only amount to a speculative guess or explanations uncorroborated in any manner. One hypothetical source of a positive test does not prove to the level of satisfaction required that such explanations are factually or scientifically probable. The First Respondent has a stringent requirement to offer persuasive evidence of how such contamination occurred.²⁸

4.34 The same principle, as incorporated into the ADMC Program, has been applied in recent arbitration awards to deny any reduction in sanction where the trainer could not carry the burden of proving how the Prohibited Substance entered the horse's system. *See HIWU v. Lynch*, JAMS Case No. 1501000597 (Nov. 9, 2023) (Hon. B. Bush, Arb.) ("Taken as a whole, Trainer Lynch has presented mere speculation, rather than competent evidence, regarding the source of the [Prohibited Substance] In the Covered Horse");²⁹ *HIWU v. Dominguez*, JAMS Case No. 1501000577 (Sept. 12, 2023) (B. Taylor, Sr. Arb.).³⁰

5. REQUESTED CONSEQUENCES

ADMC Program Rule 3221, in relevant part, provides:

(a) Automatic Disqualification of results.

(1) An Anti-Doping Rule Violation that arises from a Post-Race Sample, or that occurs during the Race Period, automatically leads to Disqualification of the Results of the Covered Horse obtained on the Race Day(s) that fall(s) within the

²⁸ ALA-9, p. 20 at §§ 5.26-5.27.

²⁹ ALA-10, p. 26 at § 6.27.

³⁰ ALA-11, pp. 15-16 at §§ 7.6 – 7.8.

Race Period, even if any other sanction for the violation is eliminated or reduced under Rules 3224, 3325, or 3226.

...

(b) Disqualification of subsequent results.

(1) Subject to paragraph (2), in addition to the automatic Disqualification of results under Rule 3221(a), any other results that the Covered Horse obtained from the date the Anti-Doping Rule Violation first occurred, as well as during any period of retroactive Ineligibility, shall be Disqualified, unless it is established by the Responsible Person that fairness requires otherwise.

...

(c) Consequences of Disqualification Results.

(1) If a Covered Horse has results Disqualified under the Protocol, all purses and other compensation, prizes, trophies, points, and rankings are forfeited and must be repaid or surrendered (as applicable) to the Race Organizer...³¹

ADMC Program, Rule 3222, in relevant part, provides:

(a) For a violation of Rule 3212 (presence), 3213 (Use or Attempted Use), or Rule 3214(c) (Administration or Attempted Administration), the Covered Horse involved shall be ineligible for the period designated in the Prohibited List for the Banned Substance or Banned Method in issue.

...

(d) the period of Ineligibility for a Covered Horse shall be deemed to commence on the date that the violation occurred (which, in the case of a Rule 3212 violation, shall be the date that the positive Sample was collected, even if the Covered Horse has participated in Timed and Reported Workouts or Covered Races after that date).³²

5.3. Pursuant to ADMC Program Rule 4310, the period of Ineligibility for a Covered Horse for a violation involving a Prohibited Substance for an S3 Banned Substance is "14 months."³³

5.4. ADMC Program Rule 3223 provides that the period of Ineligibility for a Covered Person's first doping offense for a Presence ADRV under Rule 3212 shall be "2 years," and that the

³¹ ALA-1, pp. 31-32.

³² ALA-1, p. 32.

³³ ALA-1, p. 55.

financial penalty shall be a “[f]ine of up to \$25,000 or 25% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency’s legal costs.”³⁴

5.5 Based on the above provisions of the ADMC Program, HIWU seeks the imposition of the following Consequences:

- i. Disqualification of the results of Hughie’s Holiday obtained on July 8, 2023, and subsequent to the date of Sample collection, including forfeiture of all purses and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer (ADMC Program Rule 3221);
- ii. A period of Ineligibility of 14 months for Hughie’s Holiday, beginning on July 8, 2023, (ADMC Program Rule 3222);
- iii. A period of Ineligibility of two (2) years for Trainer Lewis as a Covered Person, beginning on September 22, 2023, the date his Provisional Suspension was imposed (ADMC Program Rule 3223); and
- iv. A fine of USD \$25,000 and payment of some or all of the adjudication costs (ADMC Program Rule 3223); and
- v. Any other remedies which the Arbitrator considers just and appropriate in the circumstances.

6. EXHIBITS, LEGAL AUTHORITIES, AND WITNESSES

HIWU submitted six exhibits and twelve legal authorities which were admitted into evidence. They are listed below:

HIWU submitted the following exhibits for hearing:

1. August 10, 2023, Notice Letter with attachments.
2. September 22, 2023, EAD Charge Letter with attachments.
3. Industrial Labs Laboratory Document Package.
4. PETRL Report of Adverse Analytical Finding and Laboratory Document Package.

³⁴ ALA-1, p. 32.

5. Knych HK, Mitchell MM, Steimmetz SJ, McKemie DS. (2024) Detection, pharmacokinetics and cardiac effects following administration of Clenbuterol to exercised horses. *Equine Veterinary Journal*, 46(3): 380-385.
6. Expert Report of Dr. Heather Knych.

HIWU submitted the following legal authorities for the hearing:

1. HISA ADMC Program.
2. Horseracing Integrity and Safety Act of 2020.
3. *Gabriel da Silva Santos v. FINA*, CAS 2019/A/6482
4. *Maria Sharapova v. ITF*, CAS 2016/A/4643
5. 2021 WADA Code
6. *IRB v. Keyter*, CAS 2006/A/1067
7. *Sesil Karatanchieva v. International Tennis Federation*, CAS 2006/A/1032
8. *FINA v. Villanueva*, FINA Doping Panel 05/15
9. *UCI v. Jana Horakova & CCF*, CAS 2021/A/2760
10. *HIWU v. Lynch*, JAMS Case No. 1501000597
11. *HIWU v. Dominguez*, JAMS Case No. 1501000577
12. Any other legal authority necessary for rebuttal purposes.

7. WITNESSES

HIWU presented the following witnesses:

1. Zachary Ceriani
2. Dr. Heather Knych

Lewis presented the following witnesses:

1. Jim Iree Lewis
2. Dr. Jason Scott

8. ANALYSIS

8.1 There is little, if any, dispute about the relevant facts in this case and the rules and legal standards applicable to those facts as presented by the evidence, witnesses, cases, HIWU rules, and the federal statutes. Also, the stipulated facts demonstrate that HIWU has met its burden in this case.

8.2 The horse in question, Hughie's Hollday, was in Trainer Lewis's possession beginning March 21, 2023.

8.3 The horse was trained by Lewis for approximately 48 days before it ran and won a claiming race at Ruldoso Downs on July 8, 2023.

8.4 A post-race blood sample was collected from the horse and divided into an A and B sample.

8.5 Sample A was tested by Industrial in Denver, Colorado, and Lewis was notified on August 10, 2023, that Hughie's Holiday had tested positive for Clenbuterol, thus resulting in an adverse analytical finding.

8.6 On August 13, 2023, Lewis requested that Sample B be tested and it was analyzed by PETRL in West Chester, Pennsylvania.

8.7 On September 22, 2023, Lewis was notified that the Sample B contained Clenbuterol and he was charged with an ADRV. He was also provisionally suspended effective that date.

8.8 Lewis has cooperated and complied with all requests from HIWU relating to the charge and has no other pending charges or violations after horses he has trained were examined and samples were taken from them on August 10, 2023.

8.9 Lewis has never admitted fault for the violation or for the source of the violation alleged by HIWU.

8.10 Zachary Ceriani testified to the fact that HIWU had followed all appropriate procedures, and had jurisdiction in this matter, and had authority under appropriate statutes and codes to investigate the matter and enter a provisional suspension imposed on Lewis.

8.11 His testimony and the evidence he presented that JAMS and the Arbitrator hearing this matter had jurisdiction to proceed and hear this matter and Lewis's counsel did not object to the proceeding.

8.12 Ceriani testified about the collection process and the laboratory findings. He stated that once clenbuterol was found in both samples, HIWU had no choice but to follow the rules and issue an ADRV citing a 3212 violation. He submitted that this created a No Fault or Negligence (strict liability) situation, and that no excuse for the presence of the prohibited substance was forthcoming from Lewis or his counsel other than those not permitted by the HIWU governing rules.

8.13 He stated that because Lewis had not met his burden of proof, Rules 3224 and 3225 should apply, and that the horse, Hughie's Holiday, should be disqualified from racing for fourteen (14) months, and that Lewis should be disqualified from racing for two (2) years, both from September 22, 2023; that Lewis should pay \$25,000 plus administrative costs and HIWU's attorney's fees, and that Lewis should face public disclosure for his actions.

8.14 Jim Iree Lewis testified that he has been training thoroughbred and quarter horses for over 40 years in New Mexico and in Aurora and has had a small barn or stable of horses under his control at any one time.

8.15 He stated that his training was not financially lucrative and that his lawyer was working for him and defending him as a pro bono attorney. He said that the fine of \$25,000 would break him financially and that he would have to close his stable.

8.16 He had no prior violations of any codes or rules pertaining to his training and only took Hughie's Holiday as a favor to Andres Egurrola, a friend who shoes his horses. Egurrola had

purchased the horse for Rudy Romero who raced horses in Tucson and who had committed violations of horse safety regulations on more than one occasion.

8.16 As a defense to the presence of Clenbuterol in the horse's blood samples he offered several reasons in his defense: (1) the water bucket used to cool down his horse was dirty; (2) he had attended an event about the new HIWU rules and was aware Clenbuterol was on the prohibited drug list; (3) HIWU did not collect urine or hair for testing; (4) the period between the time of collection and his suspension, two and one half months, was too long; and (5) he has never been accused, much less convicted of, violations of horse safety regulations.

8.17 Dr. Jason Scott appeared as a witness for Lewis. He is a veterinarian who practices at Ruidoso Downs and is a private practitioner who routinely treats horses trained by Lewis. He testified that he had treated these horses with anti-inflammatory drugs, antibiotics and deworming medications. He has no recollection of dispensing Clenbuterol to any thoroughbreds or quarter horses in Lewis's stable and not much at all since 2015. On cross-examination he admitted that Clenbuterol dissipates from blood much quicker than from hair, and that the danger of using it to treat inflammatory conditions is that it is now a zero tolerance drug. He was a very knowledgeable and forthcoming witness.

8.18 The last witness called was Dr. Heather Kynch, who testified as a rebuttal witness for HIWU. She has a doctorate in veterinary medicine and a PhD in pharmacology specializing in how horses process drugs through their systems. She is an expert in equine pharmacology, pharmacokinetics, and pharmacodynamics. She testified that it is very unlikely that the Clenbuterol found in Hughie's Holiday's blood samples collected on July 8, 2023, could have resulted from the horse being administered Clenbuterol before May 21, 2023.

8.19 Dr. Kynch was incredibly credentialed, very direct and believable in her testimony, and is clearly engaged in seeing that all horses are treated properly by owners and trainers.

8.20 After reviewing the documents and testimony, as well as all applicable rules and law cited, and rulings in similar cases, Trainer Lewis has failed to meet his burden and establish how or why the Prohibited Substance was in the blood of the Covered Horse after its victory in the July 8 race.

8.21 Lewis offers several theories on how the substance was in the horse's system. The evidence and testimony at the hearing failed to support any of his speculations. The scientific studies claim that the level of detection of Clenbuterol would fall below the level of detection with 7-8 days after its administration. The most compelling evidence is the testimony of Dr. Kynch who testified that it is virtually impossible for Clenbuterol administered before May 21, 2023, to have been found in Hughie's Holiday's blood on July 8, 2023.

8.22 The governing rules are clear – Lewis has failed to prove how the Clenbuterol had entered his horse's system, and therefore, he is bound by the application of sanctions. My Award is also based on arbitrators' decisions applying similar provisions in the World Anti-Doping Code.

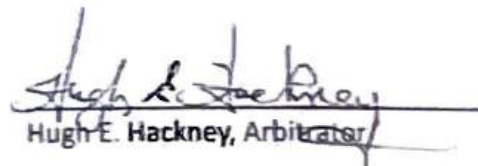
AWARD

Therefore, based upon everything previously discussed and presented before, I award and rule:

1. A disqualification of the victory of Hughie's Holiday on July 8, 2023, and a forfeiture of all purses and other compensation, prizes, trophies, points and rankings and repayment or surrender (as applicable) to the Race Organizer (ADMC Program Rule 322).
2. A period of ineligibility of 14 months for Hughie's Holiday, beginning on July 8, 2023 (ADMC Program Rule 3222).
3. A period of ineligibility of two (2) years for Trainer Lewis as a Covered Person beginning on September 22, 2023, the date his provisional suspension was imposed (ADMC 3223).
4. A fine of \$15,000 and payment of \$5,000 in adjudication costs based on all of the facts presented (ADMC Rule 3223).
5. No other remedies are appropriate.

Dated: _____

June 11, 2024


Hugh E. Hackney, Arbitrator