

Respondent's Proposed Findings of Fact and Conclusions of Law

FINDINGS OF FACT

1. On 1-28-25, Respondent Eusebio Juarez was an exercise rider for a trainer at Oaklawn and was taking care of the trainer's horses while she was away. **OT 824**
2. The October 2024 encounter. Respondent's wife had treated some chickens with a syringe earlier in the day. Wife merely stopped by the track to bring her husband coffee. HIWU searched wife's vehicle and found a syringe she had used that day to treat a chicken. HIWU asked his wife questions, she answered. 860-861; 713 pg. 52 L14-17 OT. No regulator ever asked Respondent questions about the October 2024 incident. 866 As part of the defense, Respondent raised the matter of the October 2024 incident to the Oaklawn Stewards at one of their two hearings on the matter **860**
3. On or about 1-28-25 Respondent drove his personal white sport utility vehicle onto the grounds of Oaklawn Park. [Passim]
4. A HIWU search of Respondent's personal vehicle revealed two syringes in the center console of the vehicle in plain view **OT 845-846** The syringes contained a substance later identified as "Dipo," a prohibited substance. [Passim]
5. The syringes were located exclusively within Respondent's personal vehicle, not within any barn, tack room, stable area, or other equine-related environment. [Passim]
6. Respondent immediately cooperated with HIWU. Respondent told the Investigator he did know how the syringes got into the vehicle; that he recently picked up his vehicle from the repair shop; that the mechanic must have left the syringes in the vehicle. **708** pg. 47 L 20-25; **709** pg. 48 L 1-4; Original Transcript (OT) Respondent stated he not own the syringes and had never seen them before; that he did not know the exact contents of the syringes;

but he understood the substance to be associated with treatment of injured roosters, not horses. There was no intent to administer the substance to any horse. [Passim]

7. Laboratory testing later confirmed the substance to be “Dipo.” [Passim]

Testimony of Respondent Eusebio Juarez

8. Respondent’s friend Luis Terrazas operates a mechanic shop in Hot Springs. Have known each other for 6 years, fellow rooster farmers raising chickens together, Mr. Terrazas works on Respondent’s vehicles. **OT 826.**
9. White SUV taken for service on or about 1-13-25. Was returned on the evening of 1-27-25 and driven to Oaklawn the next day. A service receipt was previously admitted into evidence. Respondent did not inventory the vehicle after receiving delivery from Mr. Terrazas. **OT 837**
10. There was no intent to administer the substance to any horse. It was not a race day. **OT 856** Oaklawn stewards initially “summarily suspended” the professional license. However, after hearing the Stewards lifted the summary suspension based on finding there was no public danger as a result of the Respondent’s possession of the syringes as in accord with the evidence Stewards heard. **OT 839-841.** Later Oaklawn Stewards conducted a “final merits hearing” on the syringe possession. Stewards ordered 30-day suspension and \$2000 fine.
11. HISA prosecutors then announced the syringe possession case should have been prosecuted by HISA, that the Stewards erred. HISA took over as the administrative prosecutor.
12. Thereafter HISA and Respondent entered the stipulation in the record directing a 30-day suspension. Today’s case involves only the substance in the syringe, not the syringe or needle. **OT 868-871**

Luis Terrazas Testimony

13. The Mechanic testified that he had exclusive possession of the subject vehicle from 1-13-25 until 1-27-25 when he returned the vehicle to Mr. Juarez. [Pg 14 L 13-16]
14. He raises roosters as personal pets, not for commercial purposes.
15. Several roosters had been attacked by a wild animal. [Pg 15 L 14-24]
16. He subsequently caught (trapped) a fox. [Pg 15 L 14-24]
17. Was concerned for the health of the seriously injured roosters. [Passim]
18. Asked a fellow rooster farmer Juan Antonio if the fellow farmer had any medicine that might help the seriously injured roosters. [Pg 15 L 14-24]
19. Obtained the two syringes from Juan Antonio for the purpose of treating injured roosters. Had used syringes intermittently in the past to treat fowl. Knows what gauge needle to use for treating a rooster. Did not know what the substance was. [Pg 15 L 14-25; Pg. 16 L 1-12]
20. He placed the syringes in Respondent's vehicle console while the vehicle was in his possession for mechanical work. The syringes were in plain view inside the console. [Pg 14 L 19-25; pg 15 L 1-13; Pg 16 L 18-20]
21. The syringes were never used. An alternative treatment resolved the adverse condition of the roosters. Had the alternative medicine been unsuccessful in treating the injuries, he would have injected the roosters with the substance received from Juan Antonio. [Pg 16 L 25; pg 17 L 1-22]
22. He inadvertently failed to remove the syringes from the vehicle before returning it to Respondent. Simply forgot they were there. [Pg 18 L 16-18]

23. He did not inform Respondent that the syringes had been left in the vehicle. [Pg 18 L 16-18]
24. He was not aware at the time the vehicle was returned that possession of syringes at a Racetrack could cause Mr. Juarez to face professional licensing problems.
25. When he found out the syringes had been discovered in Mr. Juarez truck, he immediately told Mr. Juarez the syringes were his and apologized. [Pg 18 L 24-25; pg 19 L 1-16]
26. The Mechanic's testimony contained minor inconsistencies (including imprecise recollection of the color of the substance and other collateral details), but no inconsistency in his testimony undermined the central, material fact that the syringes originated with the Mechanic.
27. No inconsistency in the testimony undermined the central, material fact that the syringes were for poultry use.
28. No inconsistency in the testimony undermined the central, material fact that the syringes were never used.
29. No inconsistency in the testimony undermined the central, material fact that the syringes were left in Respondent's vehicle unintentionally.
30. HIWU presented no evidence contradicting the Mechanic's account. [Passim]
31. HIWU presented no evidence that Respondent administered or attempted to administer Dipo to any horse; possessed Dipo in any equine setting; intended to use Dipo in connection with horseracing.
32. There is no evidence of any race-day violation, positive test, or pharmacological impact involving Dipo.

33. The present charge for possession of Dipo arises solely from the same two syringes that formed the basis of the prior disciplinary action. Original Hearing Record

CONCLUSIONS OF LAW

Burden of Proof and Evidentiary Standard

1. HIWU bears the burden of proving a violation of its rules by a preponderance of the evidence.
2. Where, as here, the case rests on a single witness and circumstantial inference, the burden requires more than speculation; it requires competent, reliable evidence connecting the Covered Person to knowing possession in a horseracing context.
3. HIWU failed to meet this burden.

Failure to Establish Knowing Possession

4. The prohibition on possession of a prohibited substance does not eliminate the requirement that the Covered Person knowingly possessed the substance in a manner implicating horseracing integrity.
5. The undisputed evidence establishes a credible, un rebutted alternative explanation:
 - o the syringes originated with a third party,
 - o were intended for poultry use,
 - o were never used, and
 - o were inadvertently left in Respondent's vehicle.
6. HIWU presented no evidence that Respondent knew the syringes were in his vehicle, nor that he exercised control over them for any equine-related purpose.

7. The absence of any nexus to horses, racing activity, or stable operations is fatal to HIWU's claim.

Lack of Nexus to Horseracing

8. The purpose of the HIWU regulatory framework is to protect the integrity of horseracing.
9. Here, HIWU presented no evidence that:
 - o Dipo was intended for use in a horse;
 - o Dipo is associated with equine performance enhancement in this context;
 - o The syringes were connected to any horse, race, or racing activity.
10. The presence of a substance in a personal vehicle, without more, is insufficient to establish a violation tied to horse racing.
11. To hold otherwise would improperly extend the rules to purely incidental, non-equine conduct, exceeding their intended scope.

Fundamental Fairness and Duplicative Sanctions

12. Respondent has already been sanctioned in a separate proceeding for possession of the same syringes, resulting in a 30-day suspension.
13. The present charge is based on the identical physical evidence and underlying conduct.
14. Imposing an additional sanction would constitute duplicative punishment for the same operative facts, raising serious concerns of fundamental fairness.
15. While framed as separate violations, the two proceedings arise from a single act of possession involving the same items.

16. Regulatory enforcement must be applied in a manner that is proportionate and non-duplicative, particularly in administrative proceedings affecting a licensee's livelihood.

Alternative Holding (Sanction)

17. Even if a technical violation were found, at most, any sanction should be coextensive with the previously imposed 30-day suspension, with no additional penalty.

ULTIMATE FINDINGS

- A. HIWU has failed to prove, by a preponderance of the evidence, that Respondent knowingly possessed a prohibited substance in violation of applicable rules.
- B. The evidence establishes that the presence of Dipo in Respondent's vehicle was the result of inadvertent third-party conduct, not a knowing or intentional act by Respondent.