

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
FTC DOCKET NO. D-9453**

ADMINISTRATIVE LAW JUDGE:

DANIA L. AYOUBI

IN THE MATTER OF:

ERIN THOMPSON

APPELLANT

**THE AUTHORITY'S RESPONSE TO APPELLANT'S APPLICATION FOR STAY OF
FINAL CIVIL SANCTIONS**

CERTIFICATE OF SERVICE

Pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), a copy of the Authority's Response to Appellant's Application for Stay of Final Civil Sanctions is being served on July 20, 2026, via Administrative E-File System and by emailing a copy to the below listed. I further certify that no portion of the filing was drafted by generative artificial intelligence ("AI") and any language in the filing that was drafted by generative AI was checked for accuracy by human attorneys or paralegals using printed legal reporters or online databases.

Hon. Dania L. Ayoubi
Acting Chief Administrative Law Judge
Office of Administrative Law Judges
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington DC 20580
via e-mail to oyalj@ftc.gov
and electronicfilings@ftc.gov

John Mac Hayes, Esq.
1601 S. Victor Ave.
Tulsa, OK 74104
via email to johnmachayeslaw@aol.com

Attorney for Appellant

April Tabor
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580
via e-mail to electronicfilings@ftc.gov

/s/ Bryan H. Beauman
Enforcement Counsel

The Horseracing Integrity and Safety Authority, Inc. (the “**Authority**”) files this Response to Appellant’s Application (“**Application**”) to stay the final civil sanctions imposed pursuant to the Final Decision (“**Final Decision**”) issued by Arbitral Body under the Authority’s Anti-Doping and Medication Control (“**ADMC**”) Program. The Application should be denied, as Appellant has failed to satisfy the requirements for a stay.¹

First, the likelihood of Appellant’s success on review is low.

The ADMC Program Rules (the “**Rules**”) were appropriately followed by both the Horseracing Integrity & Welfare Unit (“**HIWU**”) and the Arbitrator. HIWU met its burden of proof pursuant to Rule 3212, which states that “sufficient proof” is established where the B Sample is analyzed and confirms the presence of the Banned Substance in the A Sample.² Further, Appellant “conceded that Clenbuterol was found in the post-race Sample taken from Motion to Adjourn.”³

The Authority strongly contests Appellant’s argument that her appeal “presents serious legal questions concerning interpretation of Rule 3225 and the treatment of undisputed mitigating evidence.”⁴ Appellant’s “case relies on her own denial”⁵ of administration. As ALJ Himes has stated, attributing “too much weight [to a Responsible Person’s denial] would weaken the fight against doping in equine and human sport alike, and disserve the very Rules that must be enforced.”⁶ The Arbitrator assessed Appellant’s sanctions in accordance with prior case law and properly determined both the objective and subjective degrees of Fault.⁷

The factual record below makes it clear that Appellant is unlikely to succeed upon review.

¹ 16 C.F.R. §1.148(d).

² ADMC Program Rule 3212(b)(2).

³ Final Decision ¶ 8.3.

⁴ Application p. 4.

⁵ Final Decision ¶ 8.26.

⁶ Final Decision ¶ 8.27 (quoting *In the Matter of Philip Serpe*, Administrative Law Judge Decision on Application for Review, Docket No. 9441, p. 35 (September 12, 2025)).

⁷ Final Decision ¶¶ 8.11-8.30.

Second, Appellant has not and will not suffer irreparable harm.

Appellant's bare assertions that "owners will be forced to remove horses from her care, business relationships will be lost, employees may lose their employment, and Appellant's professional reputation will suffer injuries that cannot be remedied"⁸ do not meet the standard for granting a stay as "speculative injury is not sufficient."⁹ It is well settled that "economic loss does not, in and of itself, constitute irreparable harm."¹⁰ Rather, "monetary loss may constitute irreparable harm only where the loss threatens the very existence of the movant's business."¹¹ Further, harm can only be considered irreparable "where there is no adequate remedy at law, such as monetary damages"¹² and "the temporary loss of income...does not usually constitute irreparable injury."¹³

Moreover, the mere imposition of a period of Ineligibility does not meet the standard for irreparable harm. While "one-time" events that are a once in a lifetime occurrence, such as the Olympics, qualify as irreparable harm,¹⁴ there were 29,401 Thoroughbred horseraces in the United States in 2025.¹⁵ Appellant can also compete in Louisiana, West Virginia, and Texas, which are not currently regulated by the Authority.

Further, the sanctions imposed were published on HIWU's website on July 9, 2026. As required by Rule 3610, the potential violation itself, which occurred on June 5, 2025, was posted by HIWU on September 4, 2025. Thus, the facts of this case have already been made public as

⁸ Application p. 4.

⁹ *In the Matter of Larry Rickman Overly*, Docket No. 9443, Order on Application for Review and Application for Stay, p. 15 (November 20, 2025) (citing *Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2011)).

¹⁰ *Wisc. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985). *See also Los Angeles Memorial Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1202 (9th Cir. 1980) ("It is well established, however, that [alleged] monetary injury is not normally considered irreparable").

¹¹ *Wisc. Gas* at p. 674.

¹² *Janvey* p. 600.

¹³ *Sampson v. Murray*, 415 U.S. 61, 90 (1974).

¹⁴ *Reynolds v. Int'l Amateur Athletic Fed'n*, 505 U.S. 1301, 1302 (1992).

¹⁵ The Jockey Club 2025 Factbook, available at <https://www.jockeyclub.com/default.asp?section=FB&area=6>.

required by the Rules such that “[a]ny arguable harm has already occurred and thus would be unaffected by issuing a stay.”¹⁶

Third, contrary to Appellant’s submission, other parties will be harmed if the stay is granted.

As outlined above, the Authority strongly contests Appellant’s argument that the Final Decision imposes sanctions that are the result of any error. The ADMC Program protects the integrity of horseracing and the confidence of its stakeholders, including the betting public.¹⁷ Granting a stay would undermine the Authority’s efforts to protect the integrity of horseracing and will harm other Responsible Persons by permitting Appellant’s participation therein. It would also be contrary to the ADMC Program’s mission to protect horse welfare.

Fourth, the stay is *not* in the public interest.

“A stay pending appeal is an intrusion into the ordinary processes of administration and judicial review, so this extraordinary relief is never granted as a matter of right.”¹⁸ The public interest is served by individual compliance with the rules and regulations validly promulgated by federal agencies. The stated purpose of the Horseracing Integrity and Safety Act is “to improve the integrity and safety of horseracing by requiring a uniform anti-doping and medication control program...” A stay in this case would be antithetical to that purpose. Appellant bears the burden of satisfying the express requirements for a stay, as well as providing facts which support her request. She has not done either. To grant a stay despite these shortcomings would clearly not be in the public interest.

The Authority requests that Appellant’s Application for a stay be denied.

¹⁶ *Overly* at p. 15 (citing *Janvey* at p. 600; see also *Wisc. Gas* at p. 674).

¹⁷ ADMC Program Rules 3010(a), 3010(d)(7). See also *Overly* at p. 18-19.

¹⁸ *Overly* at p. 10 (citing *Rhode Island State Council of Churches v. Rollins*) (internal citations omitted).

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 20th day of July 2026.

/s/Bryan H. Beauman

BRYAN H. BEAUMAN
REBECCA C. PRICE
333 W. Vine Street, Suite 1500
Lexington, Kentucky 40507
Telephone: (859) 255-8581
bbeauman@sturgillturner.com
rprice@sturgillturner.com
HISA ENFORCEMENT COUNSEL

JANELLE L. WINSTON
CHRISTY L. HEATH
GENEVA N. GNAM
4801 Main Street, Suite 350
Kansas City, MO 64112
Telephone: (816) 814-4713
jwinston@hiwu.org
cheath@hiwu.org
ggnam@hiwu.org
**HORSE RACING INTEGRITY &
WELFARE UNIT, A DIVISION OF
DRUG FREE SPORT LLC**