PUBLIC

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of	)	
	)	
Eusebio Juarez-Rufino,	)	Docket No. 9444
	)	
Appellant.	)	

ORDER ON REMAND FROM THE COMMISSION

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TABLE OF ABBREVIATIONS

General

ADMC – Anti-Doping and Medication Control (Rule Series 3000)

Authority – Horseracing Integrity and Safety Authority

HISA – Horseracing Integrity and Safety Act, 15 U.S.C. §§ 3051-60

HIWU – Horseracing Integrity & Welfare Unit

Review Proceeding

AB – Appeal Book

AuOBr. – Authority's Opening Brief

AuPCOL – Authority's Proposed Conclusions of Law

AuPO – Authority's Proposed Order

I. Summary of the Facts.

In 2025, the Horseracing Integrity and Welfare Unit ("HIWU") searched the SUV owned by appellant Eusebio Juarez-Rufino, a thoroughbred racehorse trainer, at Oaklawn Park Racetrack in Hot Springs, Arkansas. The search disclosed two filled hypodermic syringes, which laboratory analysis later determined contained diisopropylamine ("dipa"). Dipa is a Banned Substance under the Anti-Doping and Medication Control ("ADMC") Rules, issued to implement the federal Horseracing Integrity and Safety Act.[1]

HIWU charged Mr. Juarez with violating Rule 3214(a), which prohibits "Possession of a Banned Substance . . . unless there is compelling justification for such Possession." The Rule imposes strict liability, regardless of knowledge or intent, absent circumstances not present here.[2] As sanctions, HIWU sought the 24- month default period of Ineligibility and maximum discretionary fine of $25,000 "for a first-time Violation of ADMC Program Rule 3214(a). . . ."[3]

Mr. Juarez did not assert a "compelling justification" defense, but sought instead to excuse or mitigate the violation by asserting that the auto

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[1] 88 Fed. Reg. 5135 (Jan. 26, 2023); 15 U.S.C. §§ 3051-60. Capitalized terms used, but not defined in this Order, are those defined in Rule 1020. Other abbreviations are set forth in the Table of Abbreviations.

[2] Rule 1020 (definition). *See also, e.g., Matter of Shell*, No. 9439, 2025 WL 1784696, at *11, n.16 (FTC ALJ Mar. 6, 2025): *HIWU v. Poole*, JAMS Case No. 1501000576, at ¶¶ 7.7-.8 (Aug. 8, 2023), *aff'd sub nom. Matter of Poole,* No. 9417, 2023 WL 8435860 (FTC ALJ Nov. 13, 2023).

[3] AB 124 (Charge letter). *See* Rule 3223(b) (prescribing sanctions).

mechanic who recently had serviced his SUV, Luis Terrazas, had put the two syringes in the vehicle and failed to tell Mr. Juarez about them.

An arbitration was convened to resolve HIWU's Possession charge. Shortly before the evidentiary hearing, the Arbitrator ruled that Mr. Juarez had failed to timely identify Mr. Terrazas as a witness. The Arbitrator therefore declined to permit him to testify. After hearing testimony from Mr. Juarez and other witnesses, and receiving documentary evidence, the Arbitrator held that HIWU proved its Possession charge.

In addition, the Arbitrator ruled on Mr. Juarez's defense that sanctions should be reduced, but not eliminated, because there was No Significant Fault or Negligence ("NSF") on his part.[4] The Arbitrator determined that Mr. Juarez's fault was "considerable" and that he therefore "should suffer a period of Ineligibility at the highest end of the range, 24 months," prescribed under Rule 3223for a first time Possession violation.[5] Accordingly, the Arbitrator awarded the following sanctions against Mr. Juarez:

1. A two-year period of Ineligibility.

2. A fine of $10,000, reduced from the discretionary $25,000 maximum, inasmuch as, the Arbitrator found, there was no evidence

[4] *See* Rule 3225.

[5] AB 659, at ¶¶ 7.19, 7.20, 7.22 (Corrected Final Decision). *See generally id.* 658, at ¶¶ 7.15-.17 (discussing the NSF analysis).

Mr. Juarez intended wrongdoing or gained any benefit from Possession of the dipa.

3. A contribution of $8,000 toward HIWU's share of the arbitration costs.[6]

II. The ALJ Review Proceeding and Mr. Juarez's Petition for Commission Review.

Mr. Juarez sought review of the Arbitrator's decision and the sanctions imposed, arguing that I should direct an evidentiary hearing on the review because the Arbitrator erred by excluding Mr. Terrazas, "a necessary defense witness."[7] I granted that request and also stayed sanctions pending the review.[8] Mr. Terrazas subsequently testified at an evidentiary hearing held in February 2026. Thereafter, the parties briefed the merits of the review.

In arguing the merits, the Authority maintained that '[t]he Arbitrator's assessment of Fault was correct and the Consequences [that is, sanctions] he imposed should be affirmed."[9] Indeed, the Authority also asserted that there was "reason to *increase* [Mr. Juarez's] period of Ineligibility and total fine based upon the unconvincing and fraudulent nature of the evidence introduced by [him] before both the Arbitral Body and this tribunal."[10] Mr. Juarez, the

[6] *Id.* 659-61, at ¶¶ 7.23-.29, 8.1.

[7] Amended Petition for Review at 2.

[8] *Matter of Juarez-Rufino*, No. 9444, 2025 FTC Lexis 122 (ALJ Dec. 2, 2025). *See* FTC Rule 1.146(b)(1) & (c)(2) (authorizing receipt of additional evidence on review).

[9] AuPCOL ¶ 5.

[10] AuOBr. at 23 (emphasis in original).

Authority argued, had "manufacture[d] . . . a concocted story" to defend the Possession charge against him.[11] This conduct, the Authority maintained, triggered the Aggravating Circumstances provisions of ADMC Rule 3227(a), thus warranting increased Ineligibility of at least another year period and a $5,000 fine increase above the $10,000 awarded.[12]

Based on the record—which consisted of both the evidence from the arbitration and the evidentiary hearing on review—I upheld Mr. Juarez's liability for Possession of dipa. Further, upon reviewing the evidence, I concluded that Mr. Juarez's account of the facts was "unworthy of belief."[13] Thus, I affirmed the Arbitrator's sanctions award, except for the fine of $10,000, which I increased to $25,000, the maximum amount authorized by Rule 3223(c).

However, I rejected the Authority's request to increase the sanctions based on Aggravating Circumstances. Despite my finding that Mr. Juarez's account of the facts was fabricated, and despite extensive case law recognizing

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[11] AuPCOL ¶ 6. *See also* AuOBr. at 21 ("Mr. Terrazas was tapped by [Mr. Juarez] to prop up a concocted Story . . . so Appellant could hide his level of Fault for the Possession ADRV."); *Matter of Juarez-Rufino*, No. 9444, 2026 WL 1456140, at *25 (Apr. 28, 2026).

[12] *See generally* AuOBr. at 17-24; AuPCOL ¶ 6 & AuPO ¶ 7. Rule 1020 (definition of Aggravating Circumstances); *Lewis-Parry v. USADA* at ¶ 114 (Dec. 4, 2020), https://www.usada.org/wp-content/uploads/Chi-Lewis-Parry-Decision.pdf. *Cf. United States v. Andersen*, 45 F.3d 217, 220 (7th Cir. 1995) (Because "[t]he FDA represents the public," "a deliberate attempt to mislead the FDA" provided grounds for an upward sentencing enhancement).

[13] *Juarez-Rufino*, 2026 WL 1456140, at *3. *See also id.* at *25 ("Mr. Juarez sought to muddy the waters from first to last both prior to and during this Arbitration by provision of false evidence.") (internal quotation marks and footnote omitted).

such conduct as constituting Aggravating Circumstances, two considerations, in my view, warranted denying such relief. First, because HIWU had, for the most part, not sought Aggravating Circumstances before the Arbitrator, there was no showing that such Circumstances had been "establish[ed]," as Rule 3227(a) requires. Second, I applied FTC Rule 1.146(a)(1) to preclude the Authority from raising on review an issue not asserted before the Arbitrator.[14]

Mr. Juarez sought Federal Trade Commission review of my decision. Among other grounds, he asserted that "the sanctions imposed are excessive in light of the evidence actually presented," and thus were "arbitrary and disproportionate."[15] In response, the Authority asserted that "[n]one of the alleged errors raised by Appellant warrant review by the Commission."[16] With respect to my sanctions determination, the Authority quoted parts of my decision and wrote: "The ALJ's Decision properly addressed how he arrived at his finding regarding Appellant's Fault and the assessed Consequences. . . ."[17]

III. The Commission's *Serpe* Decision and my Subsequent Order in *Scott*.

While Mr. Juarez's application for Commission review was pending, the Commission issued its decision in *Matter of Serpe*.[18] The Commission held

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[14] *Id.* at *26.

[15] Respondent's Notice of Appeal, No. 9444, 2026 WL 1633290, at *2 (May 28, 2026).

[16] The Authority's Response to Appellant's Application for Review, No. 9444, 2026 WL 1678524, at *1 (June 5, 2026).

[17] *Id.* at 3.

[18] No. 9441, 2026 WL 1906387 (FTC June 30, 2026).

that, where—as in *Serpe*—"the Authority decline[d] to impose a fine," I "was not authorized to impose a civil penalty" under the review authority conferred in HISA cases.[19] As the Commission further emphasized, "Mr. Serpe and the Authority were in agreement: the ALJ cannot impose a fine *sua sponte*."[20] The word "modify" in the ALJ's review authority, the Commission found, did not authorize "add[ing] a species of sanction that the Authority declined to impose. . . ."[21] The underpinnings of *Serpe* were: (1) the party-presentation principle, which instructs that, "when it comes to what is best for each party in litigation, courts assume that the parties know best and decide the case accordingly"[22]; and (2) the "longstanding" cross-appeal rule, which precludes "altering a judgment to benefit a nonappealing party."[23]

After the Commission's *Serpe* decision, I issued an Order in *Matter of Scott*,[24] where the charged veterinarian had raised the question whether I had jurisdiction to consider the Authority's position: (1) that the arbitrator's sanctions in that case included errors of law that rendered them too lenient; and (2) that I should, accordingly, correct the errors by increasing the sanctions. As I will discuss further below, I held that the facts in *Scott* were

[19] *Id.* at *1, *8.

[20] *Id.* at *8.

[21] *Id.* at *10.

[22] *Id.* (footnote omitted).

[23] *Id.* at *11 (footnote omitted) (cleaned up).

[24] *See generally*, No. 9449, 2026 WL 2111924 (FTC ALJ July 16, 2026).

distinguishable from those in *Serpe* and that jurisdiction existed. I therefore reserved, for resolution in my merits decision, the sanctions issues that the Authority had raised and the appropriate relief that I could award.[25]

Thereafter, the Commission issued its remand Order here,[26] providing, in pertinent part as follows:

> [In *Serpe*], we held that "the ALJ may grant only the relief requested by the applicant for review . . . absent the extraordinary circumstances that Article III courts have recognized necessary to justify departure from th[e] longstanding rule" "against 'alter[ing] a judgment to benefit a nonappealing party.'" *In re Philip Serpe*, D.9441, 2026 WL 1906387, at *11 (F.T.C. June 30, 2026).
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> Because that decision may bear on the issues presented in Mr. Juarez-Rufino's petition, we grant his petition, vacate the ALJ's April 28, 2026, decision, and remand this matter to the ALJ for further consideration consistent with our decision in *Serpe*.

The upward sanctions adjustment here was my increase in the fine from $10,000 to $25,000. I made no change to the 24-month Ineligibility the Arbitrator awarded.

I then issued an Order granting the parties leave to submit "their views on how the Commission's *Serpe* decision and my subsequent *Scott* Order may affect the relief ordered on this review."[27] The Authority has since filed its brief, while Mr. Juarez has not availed himself of the opportunity to do so.

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[25] *Id.* at *2.

[26] *Matter of Juarez-Rufino*, No. 9444, 2026 WL 2150295 (FTC July 22, 2026).

[27] Order Granting Leave to Submit Briefs on Remand at 1 (July 24, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/615959.2026.07.24_order_granting_leave_to_submit_briefs_on_remand.pdf.

The Authority recognizes that, unlike the award in *Serpe*, my upward adjustment of the fine against Mr. Juarez "did not add a species of sanction not requested by the Authority," but "was premised on the notion of 'commensurate' penalties," a default principle that the Arbitrator failed to apply.[28] The Authority further noted my assessment that the evidence Mr. Juarez introduced was "more likely than not false" and was "offered in an effort to influence the fact-finding process. . . ."[29] The Authority, however, urged a remand "so a financial penalty can be assessed consistent with the ALJ's determinations."[30]

IV. Considerations on Remand from the Commission.

A. Overview of the Law.

My post-*Serpe* Order in the *Scott* case relied on numerous Article III Court decisions that have construed SEC and CFTC Rules identical in all material respects to those in HISA Section 3058(b)(3)(A) and FTC Practice Rule 1.147(c)(5)(ii)(A) & (B).[31] Courts of Appeals have upheld upward sanctions adjustment *not only* where the issues were framed by the parties in the proceeding under review—typically before an agency ALJ—*but also* where

[28] The Authority's Legal Brief on Remand, No. 9444, 2026 WL 2295478 at *3-4 (Aug. 5, 2026).

[29] *Id.* at 8 (quoting *Juarez-Rufino*, 2026 WL 1906387, at *24).

[30] *Id.* at 8.

[31] *See Scott*, 2026 WL 2111924, at *4-6 & 7 (comparing the provisions). *See also* Administrative Law Judge Decision on Application for Review, *Matter of Scott*, No. 9449, at 108-13 (Aug. 31, 2026) ("*Scott* Decision"), https://www.ftc.gov/system/files/ftc_gov/pdf/616193.2026.08.31_administrative_law_judge_decision_on_application_for_review_0.pdf.

the reviewing body—either the SEC or CFTC—imposed a form of sanction *not* requested by enforcement counsel or not directed by the ALJ.[32] Thus, the review posture is analogous to that here, where: (1) the ALJ is the reviewing body and the Arbitrator is the initial decision-maker; and (2) the ALJ's review authority is substantively identical to that of the SEC and CFTC.

For example, the CFTC's *de novo* review authority empowers it to "affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial decision by the Administrative Law Judge and make any findings or conclusions which in its judgment are proper based on the record in the proceeding."[33] As the Seventh Circuit wrote in *Vercillo v. CFTC*,[34] in reviewing an ALJ decision the CFTC "exercis[es] its own independent review," which is "not . . . limited by the choices made by the ALJ," but rather is

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[32] *See Scott*, 2026 WL 2111924, at *5 & n.45 (citing [1] *Gonnella v. SEC*, 954 F.3d 536, 551 (2d Cir. 2020) (Enforcement counsel "did not specifically request" the bar order that the SEC imposed); [2] *Matter of Valicenti Advisory Servs., Inc.*, No. 3-8854, 1997 WL 362000, at *21 (SEC ALJ July 2, 1997) (imposing censure as the sanction, while rejecting registration revocation, a cease and desist order, and penalties), *modified*, 1998 SEC Lexis 2497, at *18-19 (Nov. 18, 1998) (directing, in addition, a cease and desist order, fines, and mailing of the SEC's order to the Respondent's clients), *aff'd*, 198 F.3d 62, 64, 66-67 (2d Cir. 1999); [3] *JCC, Inc. v. CFTC*, 63 F.3d 1557, 1564 (11th Cir. 1995) (the CFTC revoked the trader's floor registration after the ALJ declined to do so); [4] *Lawrence v. CFTC*, 759 F.2d 767, 770-71 (9th Cir. 1985) (the CFTC suspended registration although the ALJ had not done so); and [5] *Silverman v. CFTC*, 562 F.2d 432, 437, 438-39 (7th Cir. 1977) (the CFTC revoked the trader's registration after the ALJ declined to do so)). *See also Fink v. SEC*, 417 F.2d 1058, 1059-60 (2d Cir. 1969) (affirming the SEC's increase of the hearing examiner's two-month suspension to a lifetime ban).

[33] *See Scott*, 2026 WL 2111924, at *6-7.

[34] 147 F.3d 548, 553-54 (7th Cir. 1998) (characterizing the CFTC's explanation of its authority as "well-reasoned" and "not arbitrary").

"consistent with the Commission's ultimate responsibility to determine the appropriate sanction in each case that comes before it."

Case law also provides guidance on when the ALJ, in reviewing an arbitrator's decision in a HISA case, may appropriately set aside a sanction and remand to the arbitrator for further consideration, rather than increase (or otherwise modify) the sanction in furtherance of the ALJ's *de novo* review authority. Briefly, where the arbitration record is sufficient to enable the ALJ to exercise its own statutorily-conferred independent judgment, a remand is unnecessary. On the other hand, where a gap in the arbitration record renders the ALJ incapable of exercising informed judgment, it is appropriate to set aside the decision and remand.[35]

I turn, then, to whether to remand here.

B. Remand to the Arbitrator is Unwarranted.

Unlike *Serpe*—but like *Scott*—the case does not involve importing into my merits ruling a "species" of sanction that the parties did not introduce in the arbitration. At the same time, however, Mr. Juarez's case is not identical on the facts to *Scott*.

First, in *Scott*, HIWU and the Authority on review consistently sought the maximum discretionary fine of $25,000. Here, although HIWU sought a

[35] *See generally Scott* Decision, n. 31 above, at 110-13 (discussing and citing case law).

$25,000 fine in the arbitration, the Arbitrator awarded only $10,000, and on review the Authority did not seek to increase the awarded amount.[36]

Second, unlike *Scott*, here an evidentiary hearing was held on review, and the record on the review was, therefore, fuller than that available to the Arbitrator when he decided his sanctions award against Mr. Juarez.

Third, here the Authority argued that Mr. Juarez's version of the facts was concocted, and it thus sought increased sanctions for Aggravating Circumstances. I denied the request even though I concurred in the Authority's assessment of fabrication.[37]

Despite these fact wrinkles, the "species" of sanction and party presentation considerations, central to *Serpe*, do not apply here. Thus, the case law set out in my *Scott* Order is instructive. After determining that Mr. Juarez's proffered defense was a fabrication, I increased the Arbitrator's fine to $25,000—an increase that both Article III Court decisions and ADMC Rule 3223(b) authorize.

The Authority suggests a remand, however, "for a determination of financial penalties consistent with the ALJ's evidentiary determinations. The remand should further account for the ALJ's explanation of 'commensurate' penalties, i.e., the penalties that should have been applied based upon the

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[36] *See* AB 98 (EAD Notice), 124 (Charge letter), 88 (HIWU Prehearing Brief); AuPCOL ¶ 5; AuPO ¶ 5.

[37] *See* pp. 4-5, above.

Arbitrator's determination that Appellant's Fault was subjectively and objectively considerable."[38] As noted above, the Arbitrator found—on a factual analysis that did *not* include Mr. Terrazas' testimony—that he "ha[d] no choice [under the NSF Rule] but to find that [Mr. Juarez] should suffer a period of Ineligibility at the highest end of the range, 24 months. . . ."[39] The Arbitrator's NSF analysis also included a finding that Mr. Juarez's explanation for the two syringes found—that Mr. Terrazas "must have left [them] . . .while performing maintenance on the vehicle"—was "both unsubstantiated and not credible."[40] In my merits Decision, I agreed.

After Mr. Terrazas testified on this review, my "evidentiary determination" of his testimony included the following:

> Mr. Terrazas's inability to testify credibly on matters--whether big or small--is a telltale sign of fabrication. His lack of credibility infects Mr. Juarez's own defense to HIWU's charge. As I wrote in deciding to hear Mr. Terrazas's testimony: "Mr. Juarez ha[s] no other explanation for what HIWU found. . . . [T]he evidence from Mr. Terrazas [is] the centerpiece to [his] entire case." The evidentiary hearing showed that the "centerpiece" is simply a mirage.
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> Mr. Terrazas and Mr. Juarez have been friends for at least four years.
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> * * *
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> Unlike Mr. Juarez, Mr. Terrazas has no involvement in the racing industry. Since raising roosters is legal in Arkansas, it is unlikely that Mr. Terrazas would get into trouble by claiming to hav[e] two syringes

[38] The Authority's Legal Brief on Remand, 2026 WL 2295478 at *3-4.

[39] AB 659, at ¶ 7.22 (Corrected Final Decision).

[40] *Id.*, at ¶ 7.18.b.

> to be used to treat injured roosters he raised. By contrast, Mr. Juarez faced serious consequences as a result of having syringes containing a Banned Substance at Oaklawn Park racetrack. From all the evidence introduced, the reasonable inference is that, once HIWU discovered Mr. Juarez in Possession of the dipa-filled syringes, Mr. Juarez called Mr. Terrazas so that the two could cook up a far-fetched explanation for the presence of the two syringes with dipa in Mr. Juarez's SUV. Mr. Terrazas would, in effect, "take the fall." This was one friend doing another a favor.[41]

My additional comment is particularly salient:

> If, as I have concluded, Mr. Juarez's innocuous account is untrue, it may fairly be inferred that the dipa in the seized syringes was intended for a different—likely prohibited—use.
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> * * *
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> In *Datunashvili v. UWW*, the athlete introduced into evidence a video that was proven, and then admitted, to be false. The Panel's observation is apropos: "Innocent athletes simply do not create video reproductions of events and hold them out as true representations of contemporaneous events until challenged under cross-examination." They similarly do not enlist a friend to fabricate a story and offer it as a defense until exposed on cross-examination.[42]

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[41] *Juarez-Rufino*, 2026 WL 1456140 at *20 (footnotes omitted).

[42] *Id.* at *21 (footnotes omitted). *See also United States v. Bieganowski*, 313 F.3d 264, 278 (5th Cir. 2002) ("[A]lthough no individual piece of evidence . . . is dispositive, taken together the evidence as a whole suffices to establish an adequately clear picture" of what transpired); *WADA v. ICF*, CAS 2021/A/7838, at ¶ 118 (June 9, 2022) ("It is in the nature of circumstantial evidence that single items of evidence may each be capable of an innocent explanation but, taken together, establish guilt beyond reasonable doubt.") (internal quotation marks and italics omitted; citing authorities); *IAAF v. Qatar Athletics Federation*, CAS 2018/A/5989, at ¶ 243 (Dec. 12, 2019) ("[C]omparable to a puzzle—there are abundant tiny pieces of reliable and corroborated evidence and information that," along with the athlete's "contradictory, evasive or incoherent" submissions, "add up to a clear picture" of the athlete's possession of Prohibited Substances.).

My merits decision also discussed the Arbitrator's award of a $10,000 fine instead of the discretionary maximum of $25,000, which seemed to me commensurate with the Arbitrator's own Ineligibility ruling that he "ha[d] no choice" but to award the 24-month maximum.[43] The Arbitrator, however, explained the reduced fine based on his determination that "there was no indication of any intention or wrongdoing by [Mr. Juarez] other than the Possession itself, and no indication of any benefit gained by [Mr. Juarez] or any of his horses from the facts underlying the Possession violation (*e.g.*, there was no evidence of administration or other forms of Anti-Doping rule violations or that any results were affected)."[44]

I considered the Arbitrator's explanation, noting that the more fulsome record available to me was impactful:

> My review here is *de novo* and based on the full record, including the testimony of Mr. Terrazas, which the Arbitrator did not have. I find no basis for reducing the fine from the $25,000 maximum. The Possession prohibition in Rule 3214(a) is a strict liability violation. Intent and

[43] AB 659, at ¶ 7.22 (Corrected Final Decision). *See generally HIWU v. Duree*, JAMS Case No. 1501001213, at ¶¶ 7.23 & 8.a (June 28, 2026) ("Having placed Mr. Duree's fault at the highest end of the [Ineligibility] range . . . the maximum fine of $25,000 is proportionate and consistent with that assessment."); *HIWU v. Buckner*, JAMS Case No. 1501000628, at ¶¶ 7.14, 7.16, 7.18 & 8.1.D & D (Mar. 5, 2024) (applying the fine should "follow the fault" convention and awarding $25,000 where Ineligibility was 24 months); *HIWU v. Wong*, JAMS No. 1501000584, at ¶¶ 7.35 & 7.38 (Jan. 29, 2024) (Where the arbitrator did "not believe" at least some of the trainer's testimony, and where there were "no mitigating facts," "a fine of $25,000 [was] appropriate."), *aff'd*, No. 9426, 2024 WL 2045673 (FTC ALJ Apr. 22, 2024), *review denied*, 2024 WL 4025986 (FTC Aug. 28, 2024); *HIWU v. Saldana*, JAMS Case No. 1501000587, at ¶ 7.31 (Nov. 22, 2023) (Where there was a "lack of reduction in [the trainer's 24-month] period of Ineligibility, . . $25,000 is the appropriate fine" for a proven anti-doping violation) (emphasis omitted).

[44] AB 660, at ¶ 7.26 (Corrected Final Decision).

> actual or potential benefit are irrelevant as a matter of law except insofar as either may bear on the NF or NSF analysis. Lack of a bad intent, or the absence of individual benefit, are simply part of the "utmost caution" or "totality of the circumstances" analyses that NF [No Fault or Negligence] or NSF take into account.
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> Here, the evidence—and my *de novo* assessment of the veracity of the evidence Mr. Juarez introduced—weigh so heavily against him that neither professed lack of intent to cheat or to benefit reduce the Ineligibility period. Therefore, they do not provide any cognizable offset against the $25,000 maximum fine. Indeed, if, as I have concluded, Mr. Juarez has fabricated his defense, then there is indeed wrongdoing, committed before the Arbitrator and attempted on this review. Maximum deterrence is appropriate when, as here, evidence that is more likely than not false is offered in an effort to influence the fact-finding process.[45]

If the findings in my decision on review do not justify the highest discretionary maximum fine, what would?[46]

For a remand to issue, the case law, summarized earlier, requires a "gap" in the arbitration record, which impairs the opportunity for informed decision-making on review. Here, while a gap did exist—the absence of

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[45] *Juarez-Rufino*, 2026 WL 1456140 at **24 (footnotes omitted).

[46] *Cf. Matter of Altman*, No. 34-63306, 2010 WL 5092725, at *20 (SEC Nov. 10, 2010) (where an attorney's actions in an administrative case were "fundamentally repugnant to the integrity of the Commission's administrative processes," the SEC increased the ALJ's nine-month suspension from appearing before the Commission to a permanent bar), *aff'd*, *Altman v. SEC*, 666 F.3d 1322, 1329 (D.C. Cir. 2011) (declining to "disturb the Commission's choice of sanction unless it is either unwarranted in law or without justification in fact.") (internal quotation marks and citation omitted). *See also Fink*, 417 F.2d at 1059-60 (upholding the SEC's increase of the two-month suspension ordered by the hearing officer to a lifetime industry bar); *Hanly v. SEC*, 415 F.2d 589, 598-99 & n.22 (2d Cir. 1969) (affirming increased sanctions where the SEC had determined those "ordered by the hearing examiner . . . were inadequate to protect the public interest"; citing to other cases in which the SEC had increased sanctions).

Mr. Terrazas' testimony—the evidentiary hearing held as part of the review filled it.

In *Matter of Nikkhah*,[47] the ALJ's restrictive rulings unduly disadvantaged enforcement counsel and resulted in the CFTC receiving the ALJ's decision on a "limited" and "truncated record." While there was "insufficient evidence on the record to allow [the CFTC] to make an independent determination" of the charged party's ability to pay the fine imposed, instead of remanding, the CFTC exercised its own rule "to reopen the record for receipt of further evidence directly to us, and an opportunity to be heard thereon."[48]

The situation here is comparable. The evidentiary hearing, at which Mr. Terrazas testified, filled the gap in the arbitration record and enabled the parties on this review to be heard on a fuller record. I then resolved the review based on that record, not on the more limited one before the Arbitrator.

In consequence, a remand would put the Arbitrator in an uncommonly awkward position of: (1) re-evaluating the appropriate fine based on a record that augments the record that formed the basis for his initial determination; (2) assessing the weight to give to my finding of Mr. Juarez's wrongdoing on the fine amount; and (3) applying the case law favoring a fine commensurate

[47] No. 95-13, 2005 WL 723871, at *6 (CFTC Mar. 25, 2005).

[48] *Id.* at *7 (footnote omitted). *See also Nikkhah*, 2005 WL 1307719 (CFTC May 31, 2005) (ordering the initial schedule for the CFTC's proceeding).

with a 24-month Ineligibility period that I agreed the Arbitrator appropriately awarded.

I appreciate the Authority's suggestion that perhaps the Arbitrator could be instructed, on a remand, to revisit the fine level "consistent with the ALJ's evidentiary determinations."[49] However, I sense this would require "a mental gymnastic, beyond not only [the Arbitrator's] powers, but anyone else's."[50]

A remand to the Arbitrator is therefore unwarranted.

V. Conclusion.

My decision on review addressed the evidence, which included Mr. Terrazas's testimony, not before the Arbitrator. I also considered the Arbitrator's basis for selecting a $10,000 fine, despite his awarding a 24-month Ineligibility period, and despite the seriousness of Mr. Juarez's fabrication. I held that the Arbitrator's $10,000 fine was "not in accordance with law"—one of the grounds recognized for rejecting a sanction under review.[51] Article III Courts consistently uphold my authority to increase the fine, regardless of the

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[49] *Juarez-Rufino*, No. 9444, 2026 WL 2295487, at *2 (FTC ALJ Aug. 5, 2026).

[50] *United States v. Herrera*, 51 F.4th 1226, 1268 (10th Cir. 2022) (internal quotation marks to *Nash v. United States*, 54 F.2d 1006, 1007 (2d Cir. 1932) omitted).

[51] *Juarez-Rufino*, 2026 WL 1456140 at *25. *See also* 15 U.S.C. § 3058(b)(2)(A)(iii); FTC Rule 1.146(b)(3).

Authority's position on this review.[52] I adhere to my merits ruling as appropriate on the law and the facts.

I **AFFIRM**: (1) the Arbitrator's determination that Mr. Juarez violated Rule 3214(a); (2) the two-year period of Ineligibility imposed; and (3) the award of $8,000 in litigation costs. I **SET ASIDE** the fine of $10,000 and **DIRECT** that a fine of $25,000 be imposed.

ORDERED:

Jay L. Himes
Jay L. Himes
Administrative Law Judge

Date: September 4, 2026

[52] *See Scott* Decision, n. 31 above, at 110 (discussing *Reddy v. CFTC*, 191 F.3d 109 (2d Cir. 1999), and the underlying CFTC decision); *see* pp. 8-9 & nn.32 & 46, above.