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

ADMINISTERED BY JAMS, CASE NO. 1501000973

In the Matter of the Arbitration Between:

HORSE RACING INTEGRITY WELFARE UNIT **("HIWU"** or **"Claimant"**),
Claimant

v.

(**"Mr.Puype"** or **"Respondent"**),
Respondent.

FINAL DECISION (Corrected and Amended)

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, after a full evidentiary hearing occurring in person in Los Angeles, California on November 22, 2024, pursuant to the Horseracing Integrity and Safety Act of 2020 and its implementing regulations, do hereby FIND and DECIDE as follows:

I. INTRODUCTION

1.1 This case involves allegations of possession of a prohibited substance by a trainer of thoroughbred racehorses.

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 and Safety Act of 2020, 15 U.S.C. secs. 3051-3060. HIWU was represented initially by Allison Farrell, Esq., Senior Litigation Counsel of HIWU, and Carlos Sayao, Esq., of Tyr, LLP, of Toronto, Ontario, Canada.

1.3 Mr. Puype is a high-level trainer of thoroughbred racehorses, has been licensed as a trainer since 1986 and has owned and operated Mike Puype Racing Stable Inc. in Santa Anita, California since 2002. Mr. Puype was represented in these proceedings by Howard Jacobs, Esq. and Katlin N. Freeman, Esq., of the Law Offices of Howard L. Jacobs, of Westlake Village, California.

1.4 Throughout this Final Decision, HIWU and Mr. Puype shall be referred to individually as "Party" and collectively as "Parties."

II. THE FACTS

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 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 her reasoning. Except as noted, the facts are generally not in dispute, though the legal effect of those facts might be.

The Facts According to HIWU

2.2 HIWU asserts that Trainer Mike Puype has committed two Equine Anti-Doping Rule Violations ("ADRVs") for Possession of the Banned Substances, Isoxsuprine and Levothyroxine, under the Horseracing Integrity and Safety Authority's ("HISA") Anti-Doping and Medication Control Program ("ADMC Program").

2.3 On April 24, 2024, investigators under the authority of HIWU conducted a routine search of Barn 48 at Santa Anita Park in Arcadia, California ("Santa Anita"), including stalls and rooms assigned to and under the care and control of Trainer Puype. During the search, Investigator Lane Ruddick identified and seized two bottles of Isoxsuprine tablets and Investigator Brian Bennett identified and seized two containers of Levothyroxine powder (together, the "Seized Substances"). Levothyroxine, colloquially known and referred to by its most popular brand name, Thyro-L, and Isoxsuprine, are both Banned Substances prohibited at all times pursuant to the ADMC Program.

2.4 On April 24, 2024, Investigator Ruddick and fellow HIWU investigators Brian Bennett, Ken Silva, and Ken King, conducted a search of Barn 48 located at Santa Anita, specifically those areas (including stalls and rooms) that Trainer Puype identified as being assigned to him and under his care and control. The search commenced at approximately 10:08 a.m. Trainer Puype was present for the duration of the search and consented to the search of each area under his care and control. These areas were later identified as Rooms E, F, G, and H on the barn diagram attached as page 5 to Exhibit "B" of the Ruddick Statement, Agency's Book of Evidence and Exhibits ("ABE").

2.5 The search resulted in Investigator Ruddick discovering two bottles of tablets of the HISA Banned Substance Isoxsuprine ("Isoxsuprine Tablets") in a portable Igloo-brand cooler. The two bottles had expiration dates of 10/2012 and 06/2013, respectively. Both bottles were labeled "prescription only", but neither had a prescription label affixed to them. Investigator Ruddick labeled the Isoxsuprine Tablets as "LR-1" and placed them in an evidence bag. The

Igloo cooler also contained the HISA- permitted substances Sulfamethoxazole and Trimethoprim prescribed to Trainer Puype on July 22, 2022 and February 8, 2019, respectively.

2.6 The search further resulted in Investigator Bennett discovering two containers of the HISA Banned Substance Levothyroxine, with the brand name "Thyro-L" (the "Levothyroxine Containers," and together with the Isoxsuprine Tablets, the "Seized Substances"), in a storage cabinet that Trainer Puype unlocked for the investigators during the search. The storage cabinet also contained the HISA-permitted substances Osteo-Form and Sucralfate, and a dosing syringe.

2.7 One of the Levothyroxine Containers was unopened, unused, and dated March 2021. The other Container was mostly empty and bore a prescription label dated February 22, 2016. The label had the name "PUYPE" handwritten in the top left corner and "Low normal" written in the top right corner. The prescription label included handwritten instructions: "1 scoop once a day" for Covered Horse B POSITIVE. HISA review of Equibase records later confirmed that B POSITIVE was a Thoroughbred mare trained by Trainer Puype and owned by Bruce Corwin.

2.8 Investigator Bennett turned the Levothyroxine Containers over to Investigator Ruddick, who labeled them "LR-2" and placed them into an evidence bag.

2.9 After the search concluded at approximately 10:55 a.m. on April 24, 2024, Investigator Ruddick sealed evidence items LR-1 and LR-2. The Seized Substances were at all times secure and monitored by Investigator Ruddick during the search. Later that afternoon, Investigator Ruddick sent the evidence bags to the HIWU Offices in Kansas City, Missouri via FedEx, with the tracking number #635488512188.

2.10 Following the search and seizure on April 24, 2024, Investigator Ruddick interviewed Trainer Puype. During this interview, Trainer Puype advised that the Seized Substances belonged to him, he was unaware that he still had them, they were purchased prior to the implementation of the ADMC Program, and it was "obviously quite an oversight" that the Seized Substances remained in his possession, care, and control. Trainer Puype confirmed as much in his testimony at the Provisional Hearing.

2.11 On June 3, 2024, evidence items LR-1 and LR-2 were sent to the Animal Forensic Toxicology Laboratory at the University of Illinois-Chicago ("AFTL"). On July 8, 2024, AFTL confirmed the presence of Isoxsuprine in LR-1, and the presence of Levothyroxine in LR-2, and generated a Certificate of Analysis to that effect.

2.12 On July 18, 2024, HIWU sent an Equine Anti-Doping ("EAD") Notice letter to Trainer Puype, pursuant to ADMC Program Rule 3245, informing him that he had been found in Possession of a Banned Substances, and that this may result in ADRVs. A Provisional Suspension was imposed effective immediately pursuant to Rule 3247(a)(3).

2.13 Trainer Puype subsequently requested a Provisional Hearing in this matter, which was held on August 28, 2024. On September 2, 2024, Hearing Officer Leone dismissed Trainer Puype's request to lift the Provisional Suspension.

2.14 On September 19, 2024, HIWU charged Trainer Valery [sic] [Puype] with the two Possession ADRVs.

The Facts According to Mr. Puype

2.15 This case initially arose from an April 24, 2024 compliance inspection of Barn 48 at Santa Anita Park, conducted by HIWU investigators Lance Ruddick, Brian Bennett, Ken Silva and Ken King. The search of Barn 48 ultimately revealed two expired bottles containing the Banned Substance Isoxsuprine Hydrochloride, found in a blue cooler; and two expired bottles containing the Banned Substance Thyro-L Levothyroxine sodium powder, found in a locked cabinet. Mr. Puype was provisionally suspended from July 18, 2024 until the provisional suspension was lifted by HIWU on November 4, 2024.

2.16 Mike Puype is a 58-year-old lifelong horseman. He has been licensed as a Thoroughbred trainer and owner in the Thoroughbred racing industry since 1986 and has been licensed as a trainer and an owner in six states.

2.17 During his career as a licensed trainer, Mr. Puype has had approximately 827 winners from 5,462 starters. He is well-known for having trained MIZDIRECTION, who won the GI Breeders' Cup Turf Sprint in 2012 and 2013.

2.18 Mr. Puype has owned and operated Mike Puype Racing Stable, Inc. in Santa Anita, California since 2002. He and his employees are committed to the health, safety and welfare of the horse, and the integrity of racing overall.

2.18.1 Mike Puype Racing Stable Inc. employs 18 employees year-round. Alfredo Garcia and Francisco "Pancho" Garcia serve as Mr. Puype's Assistant Trainers, and both have worked for him for over a decade. Together, Alfredo and Pancho tend to much of the work in the stable, including administering any oral medication to horses as prescribed. Mr. Puype has very rarely administered medications to horses himself over the years, but he relays all veterinary instructions to Pancho and Alfredo.

2.18.2 Santa Anita serves as the "home base" for Mike Puype Racing Stable for most of the year, during which time they race primarily at Santa Anita Park. They typically have 42-48 horses stabled there. In the summer, they travel to Del Mar, California and train and race primarily at Del Mar Racetrack.

2.18.3 At all relevant times in this case, Mr. Puype's horses were stabled and training at Santa Anita Park.

2.19 On April 24, 2024, HIWU investigators Lane Ruddick, Brian Bennett, Ken Silva and Ken King arrived at Santa Anita Park and informed Mr. Puype that they were there to conduct a compliance inspection of barn 48, during which they ultimately located two containers of Isoxsuprine Hydrochloride in a blue cooler in one of the tack rooms, which had expired in

06/2013 (lot #080754) and 10/2012 (lot #071138) respectively, and located two containers of Thyro-L Levothyroxine sodium powder, which had expired in 03/2021 and 2/22/2016 respectively.

2.20 On July 18, 2024, Mr. Puype received notice that he was being charged with two Anti-Doping Rule Violations of ADMC Program Rule 3214(a) for the Possession of Isoxsuprine Hydrochloride and Thyro-L Levothyroxine sodium powder, both of which are classified as Banned Substances pursuant to the ADMC Program Rule Series 4000 and the Prohibited List. The July 18, 2024 EAD Notice of Alleged Anti-Doping Rule Violation described HIWU Investigators' findings as follows:

> "While searching Room F, Investigator Ruddick located two bottles of Isoxsuprine Hydrochloride tablets from a portable cooler. One bottle was identified by Lot #080754 and carried an Expiration Date of 06/2013. The other was identified by Lot #071138 and carried an Expiration Date of 10/2012. There was no label identifying any horse for whom there was a prescription for that Isoxsuprine Hydrochloride...
>
> While searching Room G, Investigator Ruddick located two (2) containers of Thyro-L Levothyroxine sodium powder in a locked storage cabinet that you unlocked for the Investigators during that search. One cannister was open and unused, with an expiration date of 03/21. The other cannister was mostly empty and bore a prescription label dated 2/22/16."

2.21 The factual circumstances surrounding both the alleged possession of Isoxsuprine and the alleged possession of Thyro-L are set forth in detail in the affirmations of Mike Puype, Assistant Trainer Alfredo Garcia, Assistant Trainer Francisco "Pancho" Garcia, and Mr. Puype's former veterinarian Dr. Jeff Blea, and in their testimony at the Hearing.

2.22 With respect to the July 18, 2024 possession of Isoxsuprine charge, the HIWU investigators located two expired containers of Isoxsuprine in a blue cooler in one of the Room F, which had expired in 2012 and 2013 respectively.

2.22.1 Mike Puype, Alfredo Garcia, and Pancho Garcia all attest that the blue cooler belonged to Ral Ayers, who served as Mr. Puype's Assistant Trainer until 2022, when he left the stable. The cooler did not belong to Mr. Puype, and none of the contents of the cooler belonged to him. Alfredo Garcia adds that the blue cooler "has been in a corner with boots and nother things piled on it for many years and has always remained at Santa Anita."

2.22.2 Neither Mr. Puype, nor his assistant trainers, were aware that the two containers of Isoxsuprine were in the blue cooler. Mr. Puype asserts that if he had seen them, he would have disposed of them immediately, which is consistent with his directions to his assistant trainers to dispose of any expired medication they came across. Mr. Puype, Alfredo Garcia, and Pancho Garcia all strongly deny administering the Isoxsuprine to any horse, or ever seeing any other person administer the Isoxsuprine to any horse.

2.22.3 The Isoxsuprine was likely prescribed and dispensed by Dr. Jeff Blea, a highly respected veterinarian, or a member of his former practice, in or around 2010 and 2011,

given that the shelf-life of the veterinary product as packaged for sale is approximately 2 years. Pursuant to California Veterinary Medical Board requirements, veterinary records are required to be kept for three years following an animal's last visit. Accordingly, Dr. Blea no longer retains any records relating to prescriptions issued in 2011 and before. Mr. Puype's current veterinarian, Dr. Jennifer Finley of Equine Athletes, has also been unable to locate any records relating to this prescription.

2.22.4 Mr. Puype was aware that Isoxsuprine could not be administered to racehorses and has not administered Isoxsuprine to a racehorse at any time since the HISA Regulations came into effect.

2.22.5 Mr. Puype is adamant that he would never even consider administering an expired medication to any horse in his care. Likewise, Alfredo Garcia and Pancho Garcia – both of whom have known and worked with Mr. Puype for over two decades – characterize Mr. Puype as an honest and well-respected member of the equestrian community, and agree that Mr. Puype would not administer expired medication to a horse under any circumstances.

2.23 With respect to the July 18, 2024 possession of Thyro-L charge, the July 18, 2024 EAD Notice asserts that Mr. Puype opened the locked cabinet in which investigators found the Thyro-L. In their respective affirmations, however, Mike Puype, Alfredo Garcia, and Pancho Garcia all attest that, in fact, Mr. Puype went to get Alfredo Garcia who provided the combination to Mr. Puype so that he could open the cabinet for investigators.

2.23.1 As additional details, when Mr. Puype was asked to open a locked cabinet in Room G, only Pancho and Alfredo Garcia knew the combination to access the cabinet, as both make use of it; Mr. Puype did not know the combination, as he had never previously opened this cabinet and had not personally used this cabinet at all. The cabinet is generally used to store latex gloves (purchased in bulk from Costco) and Animalintex hoof poultice pads, which are used to treat hoof wounds. Mr. Puype located Alfredo, who was with a horse outside the stable, and asked him if knew the combination for the locked cabinet. He informed Mr. Puype that he did and was then asked to come and unlock the cabinet for the investigators. Alfredo agreed, and followed Mr.mPuype to the stable. Alfredo did not have his glasses and could not see the numbers on the combination, so he gave Mr. Puype the combination to unlock the cabinet for the investigators. Alfredo Garcia states that he "specifically recalls" this because he needed his glasses in order to see the faded numbers on the lock.

2.23.2 Neither Mr. Puype, nor his assistant trainers, were aware that the two containers of Thyro-L were in the cabinet at all. Mr. Puype asserts that if he had seen them before, he would have "properly disposed of them immediately," which is consistent with his directions to his assistant trainers to dispose of any expired medication they came across – the reason that he
had not seen them is because he had never previously accessed this cabinet Mr. Puype, Alfredo Garcia, and Pancho Garcia all strongly deny administering the Thyro-L to any horse, or ever seeing any other person administer the Thyro-L to any horse.

2.23.3 The canister of Thyro-L dated March 2021 was "unopen and unused," while the other canister (dated February 22, 2016) was "mostly empty."

2.23.4 The Thyro-L was likely prescribed and dispensed by Dr. Jeff Blea, a highly respected veterinarian, or a member of his former practice, in or around 2014 and 2019, given that the shelf-life of the veterinary product as packaged for sale is approximately 2 years. Pursuant to California Veterinary Medical Board requirements, veterinary records are required to be kept for three years following an animal's last visit. Accordingly, Dr. Blea no longer retains any records relating to prescriptions issued in 2019 and before. Mr. Puype's current veterinarian, Dr. Jennifer Finley of Equine Athletes, has also been unable to locate any records relating to this prescription.

2.23.5 Mr. Puype was aware that Thyro-L could not be administered to racehorses and has not administered Thyro-L to a racehorse at any time since the HISA Regulations came into effect.

2.23.6 Mr. Puype is adamant that he would not consider administering an expired medication to any horse in his care. Likewise, Alfredo Garcia and Pancho Garcia agree that Mr. Puype would not administer expired medication to a horse under any circumstances.

III. PROCEDURAL HISTORY

3.1 On July 18, 2024, HIWU sent an Equine Anti-Doping ("EAD") Notice letter to Trainer Puype, pursuant to ADMC Program Rule 3245, informing him that he had been found in Possession of a Banned Substances, and that this may result in ADRVs. A Provisional Suspension was imposed effective immediately pursuant to Rule 3247(a)(3).

3.2 Trainer Puype subsequently requested a Provisional Hearing in this matter, which was held on August 28, 2024. On September 2, 2024, Hearing Officer Leone dismissed Trainer Puype's request to lift the Provisional Suspension.

3.3. On September 19, 2024, HIWU charged Trainer Puype with the two Possession ADRVs. The provisional suspension was lifted by HIWU on November 4, 2024.

3.4 Following a scheduling conference before Arbitrator Reeves, Procedural Order #1 was issued on October 21, 2024, setting a schedule leading up to a merits hearing on November 22, 2024:

By agreement of the Parties and Order of the Arbitrator, the following is now in effect:

1. *Regarding Briefs and Exhibits*

   a. *Each party shall serve and file electronically a prehearing Brief on all significant disputed issues, setting forth briefly the party's positions and the supporting arguments and authorities, on the dates specified below:*

i. *Claimant's Pre-Hearing Brief:* ***October 25, 2024****; and*

ii. *Respondent's Pre-Hearing Brief:* ***November 8, 2024****.*

iii. *Claimant's Pre-Hearing Reply Brief:* ***November 18, 2024****.*

b. *The parties shall submit their exhibits to be used at the hearing, electronically to the Arbitrator and the other party* ***on the dates their respective initial pre-hearing briefs are due****. The parties also shall include with their respective submissions an index to the exhibits.* ***All briefs, and any witness statements, shall be transmitted electronically in MS Word versions to the Arbitrator.***

c. *Counsel shall agree on marking their exhibits so as not to duplicate exhibit numbers, and to mark an exhibit once. The Parties shall endeavor to agree on a joint set of exhibits to minimize duplication. If possible, to make the hearing proceed more smoothly electronically, the Parties shall file their exhibits as an indexed .pdf file such that the Arbitrator and any Party could click on the index and be taken directly to the exhibit within the .pdf file of all exhibits.*

2. *Regarding Stipulations of Uncontested Facts and Procedure*

a. *In each case, if they are able to agree, the Parties shall submit a Stipulation of Uncontested Facts* ***on or before the date the initial pre-hearing brief is due from Claimant****.*

b. *In their first brief, Claimant shall state efforts undertaken to agree to stipulations of uncontested fact with Respondent and the points of disagreement; Respondent may respond* ***within seven (7) days thereafter****.*

c. *The Parties shall, in advance of the hearing, and* ***no later than 48 hours before the hearing****, agree upon and submit to the Arbitrator the order of witnesses to testify at the hearing that they have been able to agree upon; if the Parties are unable to so agree, they shall submit their respective positions by said deadline.*

3. *Regarding Witnesses*

a. *Claimant shall serve and file a disclosure of all witnesses reasonably expected to be called by Claimant* ***on or before the due date of its initial pre-hearing brief****.*

b. *Respondent shall serve and file a disclosure of all witnesses reasonably expected to be called* ***on or before the due date of its initial pre-hearing brief****.*

c. *The disclosure of witnesses shall include the full name of each witness, a short summary of anticipated testimony sufficient to give notice to the other side of the general areas in which testimony shall be given, copies of experts' reports and a written C.V. of any experts. If certain required information is not available, the disclosures shall so state. Each party shall be responsible for updating its disclosures as such information becomes available. The duty to update the information continues up to and including the date that hearing(s) in this matter terminate. The Arbitrator encourages the Parties to submit sworn witness statements which would constitute their direct testimony, requiring only cross-examination after a witness confirms their witness statement.*

d. *The parties shall coordinate and make arrangements to schedule the attendance of witnesses at the Hearing (defined below) so that the case can proceed with all due expedition and without any unnecessary delay.*

4. *Regarding the Hearing*

*The Hearing in this matter will commence before the Arbitrator in person on **November 22, 2024** starting at **9:00am** local time at the JAMS Century City Resolution Center and/or via the JAMS remote Zoom platform, for witnesses, to be confirmed prior to the Hearing.*

3.5 The Parties complied with the deadlines and other requirements set forth in Procedural Order No. 1.

3.6 The provisional suspension was lifted by HIWU on November 4, 2024.

3.7 The evidentiary hearing proceeded JAMS Downtown Los Angeles, California, Resolution Center, commencing at 9:00am local time, on November 22, 2024.

3.8 At the conclusion of the evidentiary hearing, both parties confirmed that they had been given a full, fair, and equal opportunity to present their case. On November 22, 2024, the Arbitrator confirmed on the record the closing of the evidence.

3.9 Upon the adjournment of the hearing, and the closing of the evidence, the Arbitrator commenced writing this Final Decision, which issued within the time required by the applicable rules.

IV. JURISDICTION

4.1 HIWU was created pursuant to the *Horseracing Integrity and Safety Act of 2020*, 15 U.S.C. secs. 3051-3060 ("Act"), and is charged with administering the rules and enforcement mechanisms of the Horseracing Integrity and Safety Authority's ("HISA") Anti-Doping and Medication Control Program ("ADMC Program"). The ADMC Program was created pursuant

to the Act, approved by the Federal Trade Commission on March 27, 2023, and implemented on May 22, 2023. *See* 88 Fed. Reg. 5084-5201 (January 26, 2023). The ADMC Program sets out the applicable rules that govern this proceeding and ground the jurisdiction of the Panel over all participants. Rule 3020 provides that the anti-doping rules set out in the ADMC Program apply to and are binding on violations by Covered Persons, and Covered Persons are defined under ADMC Program Rule 1020:

"(a) The Protocol applies to and is binding on:

...

the following persons (each, a Covered Person): all Trainers, Owners, Breeders, Jockeys, Racetracks, Veterinarians, Persons licensed by a State Racing Commission, and the agents, assigns, and employees of such Persons; any other Persons required to be registered with the Authority; and any other horse support personnel who are engaged in the care, treatment, training, or racing of Covered Horses."

4.2 Mr. Puype is a Trainer who is required to be and is registered with HISA. ADMC Program Rule 3030(a) further defines a "Responsible Person" to mean: "the Trainer of the Covered Horse."Mr. Puype is both a "*Responsible Person*" and a Covered Person who is bound by and subject to the ADMC Program.

4.3 The Rule 7000 Series of the ADMC Program sets out the arbitration procedures governing a charged violation of the ADMC Program, providing as follows:

"Rule 7010. Applicability.

The Arbitration Procedures set forth in this Rule 7000 Series shall apply to all adjudications arising out of the Rule 3000 Series.

Rule 7020. Delegation of Duties

(a) Subject to Rule 3249, Anti-Doping Rule Violations arising out of the Rule 3000 Series and violations of Rule 3229 (together, ''EAD Violations'') shall be adjudicated by an independent arbitral body (the ''Arbitral Body'') in accordance with the Rule 3000 Series and these Arbitration Procedures. The Arbitral Body may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the Arbitral Body."

4.4 Where HIWU issues a Charge Letter effecting charges on a Covered Person, arbitral proceedings are initiated pursuant to Rule 7060:

"Rule 7060. Initiation by the Agency

(a) EAD Violations. Unless Rule 3249 applies, if the Agency charges a Covered Person with an EAD Violation, the Agency shall initiate proceedings with the Arbitral Body. If a Covered Person is charged with both an EAD Violation and an ECM or Other Violation, the procedures for EAD Violations apply. The parties to

the proceeding shall be the Agency and the Covered Person(s) charged. The Owner and the Authority shall be invited to join in the proceedings as observers and, if accepted as such, receive copies of the filings in the case. In the context of EAD Violation cases, the Owner may be permitted to intervene and make written or oral submissions."

4.5 In this case, arbitration proceedings were commenced before JAMS, the designated arbitration provider. No Party disputed jurisdiction here and all Parties fully participated in the proceedings without objection.

4.6 Accordingly, the Arbitrator finds that jurisdiction is proper here.

V. RELEVANT LEGAL STANDARDS

5.1 This matter is governed by the HISA Anti-Doping and Medication Control ("ADMC") Program Rules.

5.2 The following Definition of "possession" at Rule 1020 is relevant to this matter:

Possession means actual, physical possession, or constructive possession (which shall be found only if the Covered Person has exclusive control or intends to exercise exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists). If the Covered Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive Possession shall only be found if the Covered Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. There shall be no Anti-Doping or Controlled Medication Rule violation based solely on Possession if, prior to receiving notification of any kind of any violation, the Covered Person has taken concrete action demonstrating that the Covered Person never intended to have possession and has renounced possession by explicitly declaring it to the Agency. Notwithstanding anything to the contrary in this definition, the act of purchasing (including by any electronic or other means) a Banned Substance or Banned Method constitutes Possession by the Covered Person who makes the purchase, whether or not the Banned Substance or Banned Method purchased is ever delivered to the Covered Person.

5.3 The following ADMC Rules are particularly relevant to this matter:

Rule 3223. Ineligibility and Financial Penalties for Covered Persons

(a) General.

(1) The periods of Ineligibility and financial penalties set out in this Rule 3223 apply to the Covered Person's first doping offense. Where an offense is not the Covered Person's first doping offense, Rule 3228 applies.

(2) Unless specified otherwise, the periods of Ineligibility set out in this Rule 3223 are subject to potential elimination, reduction, or suspension pursuant to Rules 3224 to 3226 or potential increase pursuant to Rule 3227.
(3) In accordance with Rule 3247(i), any period of Provisional Suspension served by the Covered Person shall be credited against the period of Ineligibility ultimately imposed on that Covered Person for the violation in question.

(b) Consequences.

Subject to Rule 3223(a), and in addition to any other Consequences that apply under the Protocol (including Disqualification), the periods of Ineligibility and financial penalties specified below shall apply to a Covered Person for his or her first Anti-Doping Rule Violation:

Anti-doping rule violation (first offense in 10-year period)	Period of ineligibility	Financial penalties
Presence (Rule 3212); Use or Attempted Use (Rule 3213); Possession (Rule 3214(a)); or Administration or Attempted Administration (Rule 3214(c)).	2 years	Fine 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.
Trafficking or Attempted Trafficking (Rule 3214(b)).	Minimum of 4 years up to lifetime Ineligibility, depending on the seriousness of the violation. A violation involving a Minor shall be considered a particularly serious violation and shall result in lifetime Ineligibility for the Covered Person who commits it. A violation that may also violate non-sporting laws and regulations shall be reported to the competent administrative, professional, or judicial authorities.	Fine of up to $50,000 or 50% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.

(c) Commencement of the period of Ineligibility for a Covered Person.

(1) Except as otherwise provided in this Rule 3223, the period of Ineligibility imposed on any Covered Person shall start on the date the period of lneligibility is accepted or otherwise imposed in accordance with the Protocol.

(2) Where a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.

(3) Where there have been substantial delays in the adjudication process or other aspects of Doping Control that go well beyond the standard timeframes for Laboratory analyses and Results Management, and the Covered Person can establish that such delays are not attributable to him or her, the start date of the period of Ineligibility may be deemed back-dated to reflect such delays, but in no event may it be deemed back-dated to a date before the Anti-Doping Rule Violation last occurred. All competitive results achieved during the period of Ineligibility by the Covered Person or Covered Horse in issue, including retroactive Ineligibility, shall be Disqualified, unless it is established by the

Covered Person that fairness requires otherwise.

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). When the violation is of Rule 3212 (presence of a Banned Substance), the Covered Person must also establish how the Banned Substance entered the Covered Horse's system as a pre-condition to application of this Rule 3224(a). In the event the period of Ineligibility otherwise applicable is eliminated pursuant to this Rule 3224, the Anti-Doping Rule Violation shall not be considered a prior violation for the purpose of Rule 3228.

(b) Rule 3224 only applies in exceptional circumstances. In particular, it will not apply where the Banned Substance found to be present in a Sample: (1) came from a mislabeled or contaminated supplement; or (2) was administered to the Covered Horse by veterinary or other support personnel without the knowledge of the Responsible Person.

(c) A finding that the Covered Person bears No Fault or Negligence for an Anti-Doping Rule Violation shall not affect the Consequences of that violation that apply to the Covered Horse (i.e., Ineligibility in accordance with Rule 3222(a) and Disqualification of results in accordance with Rule 3221).

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

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 (unless Rule 3225(b) or 3225(c) applies) the period of Ineligibility shall be fixed between 3 months and 2 years, depending on the Covered Person's degree of Fault.

(b) Specified Substances.
Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Anti-Doping Rule Violation in question, and the violation involves only a Specified Substance, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, 2 years of Ineligibility, depending on the Covered Person's degree of Fault.

(c) Contaminated Products or other contamination.
Where the Covered Person establishes that he or she bears No Significant Fault or

Negligence for the Anti-Doping Rule Violation in question and that the Banned Substance in question came from a Contaminated Product or from another form of contamination, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, 2 years of Ineligibility, depending on the Covered Person's degree of Fault.

VI. THE PARTIES' CONTENTIONS AND CLAIMS FOR RELIEF

6.1 The Parties asserted various arguments in their pre-hearing briefs and at the hearing. The below is an effort to summarize their fundamental positions. To the extent necessary, the Arbitrator will address the various arguments that were made in the Analysis section below.

HIWU's Contentions

6.2 To summarize, HIWU asserted that Trainer Puype committed two Possession ADRVs by having exclusive control over the premises where the Seized Substances were found, and/or by constructive possession of the Seized Substances as he and/or his staff knew the Seized Substances were located in his barn and intended to exercise control over them.

6.3 Under Rule 3040(b)(6), Trainer Puype as a Responsible Person bears strict liability for the actions of his staff and those under his authority, including former staff.

6.4 Case law under the ADMC Program confirms that exclusive control of a premises (i.e., barn) where Banned Substances are located will be established even if individuals under a Trainer's direction, such as their Assistant Trainers, had access to the barn.

6.5 The evidence available establishes that Trainer Puype had exclusive control over the premises where the Seized Substances were found. The Seized Substances were found in a barn marked with Trainer Puype's signage, in a secured area within Santa Anita Park inaccessible to the public, and kept locked (including when Trainer Puype and his staff were at Del Mar for the summer). The rooms within Trainer Puype's barn where the Seized Substances were found were not used by anyone other than Trainer Puype and his staff.

6.6 The Levothyroxine Containers were found in a locked cabinet to which only Trainer Puype's staff knew the combination. Trainer Puype's claim that he personally did not know the combination is of no moment to the question of whether he had Possession by exclusive control.

6.7 Trainer Puype's ignorance of the contents of his barn and attempt to shift the blame onto his Assistant Trainers does not negate his exclusive control over the premises where the Seized Substances were found. Trainer Puype is strictly liable for the acts and omissions of his staff, such that his Assistant Trainers' knowledge of, and intent to, control the Banned Substances is imputed to Trainer Puype. Were it otherwise, a Trainer could escape liability under the ADMC Program by simply turning a blind eye to the negligence (or worse) of their staff. This is not how the ADMC Program works, and Trainer Puype's attempt to shift the blame for his ADRVs to his Assistant Trainers should be rejected.

6.8 In the alternative, if the Arbitrator determines that Possession by exclusive control of the premises is not made out, HIWU submits that Trainer Puype had constructive possession because he and/or his staff knew that the Seized Substances were located in his barn and intended to exercise control over them.

6.9 The evidence available to date establishes that the Seized Substances belonged to Trainer Puype and were dispensed to his horses prior to the entry into force of the ADMC Program. Trainer Puype did not personally administer these medications, rather he delegated that responsibility to his Assistant Trainers. The Assistant Trainers stored the Seized Substances in locations where other equine medications were stored.

6.10 Even if Trainer Puype himself did not personally know of the presence of the Seized Substances in his barn on April 24, 2024, Trainer Puype's former and current Assistant Trainers would be expected to know what was in the blue cooler and the locked cabinet to which they had exclusive access and over which they intended to exercise control. This knowledge and intent are imputed to Trainer Puype who is responsible for their supervision.

Mr. Puype's Contentions

6.11 Mr. Puype contends that he: (i) did not have exclusive control of the banned substances at issue; (ii) he was not aware of the presence of the Banned Substances; and (iii) he had no intent to exercise control over the Banned Substances at issue. Alternatively, should the Arbitrator find that a Possession violation has been established, Mr. Puype will establish that he bears No Significant Fault and that the appropriate sanctions for the "possession" violations in this case are 3–4-month sanctions (served concurrently), or time served.

6.12 Mr. Puype did not have exclusive control of the prohibited substances.

6.13 The Definition of "possession" at Rule 1020 provides that constructive possession shall be found "only if the Covered Person has exclusive control or intends to exercise exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists.".

6.14 With respect to the July 18, 2024 possession of Isoxsuprine charge:

6.14.1 On April 24, 2024, HIWU investigators located two containers of Isoxsuprine Hydrochloride in a blue cooler in Room F of Barn 48, which had expired in 06/2013 (lot #080754) and 10/2012 (lot #071138), respectively. Mike Puype, Alfredo Garcia, and Pancho Garcia all attest that the blue cooler in which the Isoxsuprine was found belonged to Ral Ayers, who served as Mr. Puype's Assistant Trainer until 2022. The cooler did not belong to Mr. Puype, and none of the contents of the cooler belonged to him. Alfredo Garcia added that the blue cooler "has been in a corner with boots and other things piled on it for many years and has always remained at Santa Anita."

6.14.2 Neither Mr. Puype, nor his assistant trainers, were aware that the two

containers of Isoxsuprine were in the blue cooler. Mr. Puype asserts that if he had seen them, he would have "properly disposed of them immediately," which is consistent with his directions to his assistant trainers to dispose of any expired medication they came across.

6.15 With respect to the July 18, 2024 possession of Thyro-L charge:

6.15.1 The July 18, 2024 EAD Notice asserts that Mr. Puype opened the locked cabinet in which investigators found the Thyro-L. In their respective affirmations, Mike Puype, Alfredo Garcia, and Pancho Garcia all attest that Mr. Puype went to get Alfredo Garcia, who provided the combination to Mr. Puype so that he could open the cabinet for investigators.

6.15.2 At some point during the inspection, Mr. Puype was asked to open a locked cabinet in one of the Room G. While Pancho and Alfredo both knew the combination to access the cabinet, as both make use of it, Mr. Puype did not as he had never previously opened this cabinet and had not personally used this cabinet at all. The cabinet is generally used to store latex gloves (purchased in bulk from Costco) and Animalintex hoof poultice pads, which are used to treat hoof wounds. Mr. Puype located Alfredo, who was with a horse outside the stable, and asked him if knew the combination for the locked cabinet. He informed Mr. Puype that he did and was then asked to come and unlock the cabinet for the investigators. Alfredo agreed and followed Mr. Puype to the stable. Alfredo did not have his glasses and could not see the numbers on the combination, so he gave Mr. Puype the combination to unlock the cabinet for the investigators. Alfredo Garcia states that he "specifically recalls" this because he needed his glasses in order to see the faded numbers on the lock.

6.16 Mr. Puype was clearly not in exclusive control over either of the Banned Substances located in Barn 48 - the Isoxsuprine, which was found in a blue cooler that belonged to former employee Ral Ayers, or the Thyro-L, which was found in a locked cabinet that Mr. Puype did not know the combination to himself and had never previously opened.

6.17 Under these circumstances, where Mr. Puype did not have exclusive control over the Prohibited Substances, nor did he intend to exercise control thereof, it is submitted that the definition of Possession cannot be met and there is no violation.

6.18 Similarly, Mr. Puype submits that he had no intent to exercise control over the prohibited substances.

6.19 The Definition of "possession" at Rule 1020 provides that constructive possession shall be found "only if the Covered Person has exclusive control or intends to exercise exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists". The definition further provides that, "If the Covered Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive Possession shall only be found if the Covered Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it...". Mr. Puype did not have exclusive control of the Banned Substances at issue, nor was he aware of the Banned Substance, and had no intent to exercise control over the Banned Substances.

6.20 With respect to the July 18, 2024 possession of Isoxsuprine charge:

6.20.1 On April 24, 2024, HIWU investigators located two Isoxsuprine Hydrochloride containers in a blue cooler in Room F of Barn 48, which had expired in 06/2013 (lot #080754) and 10/2012 (lot #071138) respectively.

6.20.2 Neither Mr. Puype, nor his assistant trainers, were aware that the two containers of Isoxsuprine were in the blue cooler. Mr. Puype asserts that if he had seen them, he would have "properly disposed of them immediately," which is consistent with his directions to his assistant trainers to dispose of any expired medication they came across. Mr. Puype, Alfredo Garcia, and Pancho Garcia all strongly deny administering the Isoxsuprine to any horse, or ever seeing any other person administer the Isoxsuprine to any horse.

6.20.3 The Isoxsuprine was most likely prescribed and dispensed by Dr. Jeff Blea, a highly respected veterinarian, or another member of his former practice, in or around 2010 and 2011, given that the shelf-life of the veterinary product as packaged for sale is approximately 2 years. Pursuant to California Veterinary Medical Board requirements, veterinary records are required to be kept for 3 years following an animal's last visit. Accordingly, Dr. Blea no longer retains any records relating to prescriptions issued in 2011 and before.

6.20.4 Mr. Puype is adamant that he would never even consider administering an expired medication to any horse in his care. Likewise, Alfredo Garcia and Pancho Garcia – both of whom have known and worked with Mr. Puype for over two decades –characterize Mr. Puype as an honest and well-respected member of the equestrian community, and agree that Mr. Puype would not administer expired medication to a horse under any circumstances.

6.21 With respect to the July 18, 2024 possession of Thyro-L charge:

6.21.1 The July 18, 2024 EAD Notice asserts that Mr. Puype opened the locked cabinet in which investigators found the Thyro-L. In their respective affirmations, however, Mike Puype, Alfredo Garcia, and Pancho Garcia all attest that, in fact, Mr. Puype went to get Alfredo Garcia who provided the combination to Mr. Puype so that he could open the cabinet for investigators.

6.21.2 Neither Mr. Puype, nor his assistant trainers, were aware that the two containers of Thyro-L were in the cabinet at all. Mr. Puype asserts that if he had seen them, he would have "properly disposed of them immediately," which is consistent with his directions to his assistant trainers to dispose of any expired medication they came across. Mr. Puype, Alfredo Garcia, and Pancho Garcia all strongly deny administering the Thyro-L to any horse, or ever seeing any other person administer the Thyro-L to any horse.

6.21.3 The Thyro-L was likely also prescribed and dispensed by Dr. Jeff Blea or another member of his former veterinary practice, in or around 2014 and 2019, given that the shelf-life of the veterinary product as packaged for sale is approximately 2 years. Pursuant to California Veterinary Medical Board requirements, veterinary records are required to be kept for 3 years following an animal's last visit. Accordingly, Dr. Blea no longer retains any records relating to prescriptions issued in 2019 and before.

6.21.4 Mr. Puype is adamant that he would not consider administering an expired medication to any horse in his care. Likewise, Alfredo Garcia and Pancho Garcia agree that Mr. Puype would not administer expired medication to a horse under any circumstances.

6.22 The above witness testimony conclusively establishes that Mr. Puype was not aware of the presence of the Prohibited Substances. Furthermore, Mr. Puype submits that the extremely expired nature of the banned substances in question must be taken into account. The evidence provided by the respective expiration dates, coupled with testimony that Mr. Puype would not consider administering an expired product to a horse in his care establish that Mr. Puype did not have any intent to either possess those substances, or to administer the banned substances to any horse. As such, a constructive possession violation cannot be supported under ADMC Rules.

6.23 Under these circumstances, where Mr. Puype did not have exclusive control over the Prohibited Substances, had no knowledge that the Prohibited Substances were present, and had no intent to exercise control over the Prohibited Substances, it is submitted that Possession cannot be established.

HIWU's Contentions re Sanctions

6.24 A substantial sanction should be imposed on Trainer Puype.

6.25 Pursuant to ADMC Program Rules 3221-3223 and 3231, the presumptive Consequences for a first violation for each of the two Possession ADRVs charged against Trainer Puype include: (i) a period of Ineligibility of two (2) years for the Covered Person, (ii) a fine of up to $25,000, and (iii) payment of some or all of the adjudication costs.

6.26 Where, as here, an ADRV is established, the burden shifts to Trainer Puype to attempt to mitigate these presumptive Consequences by establishing on a balance of probabilities that he acted with either No Fault or No Significant Fault.

6.27 No Fault or Negligence is a defined term under the ADMC Program and sets an extremely high standard for a Covered Person to meet:

> *No Fault or Negligence means 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.*

6.28 To establish No Fault, 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 ADRV. It is a commonly established principle in the *lex sportiva* that No Fault applies only in the most extreme and exceptional circumstances. This sparing application has been consistently acknowledged in CAS jurisprudence and in the commentary to the WADC itself:

[A reduction of sanctions due to No Fault] will only apply in exceptional circumstances, for example, where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor.
World Anti-Doping Code 2021, Footnote 65 (Comment to Article 10.5)

6.29 Thus, the standard to establish No Fault is reserved only for the most exceptional circumstances. A Covered Person must demonstrate that it was nearly impossible for them to be able to reasonably suspect, or know, that they may be committing or at risk of committing an ADRV.

6.30 ADMC Program Rule 3225 alternatively allows for the reduction of sanctions where there is No Significant Fault or Negligence:

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

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.

6.31 **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.

6.32 Importantly, the concept of "Fault", as defined in the ADMC Program (ADMC Program Rule 1020 Definitions) (and consistent with the *lex sportiva*) is focused on the specific conduct of the individual in question and is not concerned with the impact of the penalties that might be imposed on them:

Fault means 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 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. … . 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, or 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.

6.33 Pursuant to this definition, corollary considerations such as the ex-post economic impact on Covered Persons of the imposed sanctions are not considered as relevant factors in reducing potential ineligibility based on degree of Fault.

6.34 The CAS has consistently held that No Significant Fault is also reserved for exceptional circumstances.

6.35 In the first ADMC Program Possession case of *HIWU v. Poole*, Arbitrator Benz confirmed that the No Significant Fault analysis requires a consideration of both "objective" and "subjective" elements of fault, with objective elements being at the forefront. In doing so, Arbitrator Benz established three (3) Ineligibility ranges for violations of the Program, relying on the approach adopted by the CAS in the well-known anti-doping case of *Cilic v. International Tennis Federation:*

a. Slight or Insignificant Fault – three (3) to seven (7) months;
b. Moderate Fault – ten (10) to seventeen (17) months; and
c. Significant Fault – seventeen (17) to twenty-four (24) months.

6.36 HIWU seeks the imposition of the following Consequences on Trainer Puype for each of the two Possession ADRVs charged against him:

a. A period of Ineligibility between seventeen (17) months and two (2) years;
b. A fine of USD $25,000 and payment of some or all of the adjudication costs; and
c. Public Disclosure pursuant to Rule 3620 and all other Consequences which may be required by the ADMC Program, including its supporting rules and documents.

6.37 ADMC Program Rule 3223 governs the commencement date for the periods of Ineligibility resulting from the two ADRVs. Pursuant to Rule 3223(a)(3), the first period of Ineligibility should Commence on July 18, 2024, the date Trainer Puype began to serve his Provisional Suspension. Pursuant to Rule 3223(c)(2), the second period of Ineligibility should commence on the day after the original period of Ineligibility ends:

Where a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.

6.38 In this regard, HIWU respectfully invites the Arbitrator to revisit her conclusion in *HIWU v. Shell* that the language of Rule 3223(c)(2) does not support consecutive sanctions against a first-time offender under the ADMC Program who is found to have committed multiple ADRVs. Importantly, Rule 3223(a)(1) provides as follows:

> *The periods of Ineligibility and financial penalties set out in this Rule 3223 apply to the Covered Person's first doping offense. Where an offense is not the Covered Person's first doping offense, Rule 3228 applies.*

6.39 Rule 3223(c)(2) is a subrule of Rule 3223 that applies to first-time and not subsequent offenders according to the express direction provided by Rule 3223(a)(1). Accordingly, the application of Rule 3223(c)(2) does not require proof that a Covered Person has already been sanctioned for a prior ADRV and committed a subsequent ADRV in the midst of serving that prior period of Ineligibility. That scenario is covered expressly by Rule 3228(c)(4), which states:

> *If the Agency establishes that the Covered Person has committed a further violation of the Protocol during a period of Ineligibility, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.*

6.40 When Rule 3223 and 3228(c)(4) are read together, it is apparent that Rule 3223(c)(2) applies to first-time offenders who are charged with multiple violations, such as Trainer Puype, and requires that the sanctions for each ADRV be served consecutively.

Mr. Puype's Contentions re Sanctions

6.41 Mr. Puype contends that he bears no significant fault or negligence with respect to the alleged possession violations.

No Significant Fault or Negligence is defined at Rule 1020 of the ADMC 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."*

6.42 The *HIWU v. Poole* (JAMS 1501000576) decision set out a framework for establishing the proper sanction length in a possession case, based on an analysis of objective and subjective factors of fault. However, it is submitted that the Poole case does not adequately analyze the objective and subjective factors as they apply in a possession case, following *Cilic* and *Knauss* (CAS 2005/A/847 *Hans Knauss v FIS),* and that it is therefore of limited assistance.

7.16 In CAS 2013/A/3327 *Cilic v. International Tennis Federation*, the CAS panel determined that such broad fault ranges can be broken down into categories of month ranges of fault based on level of fault and then the precise punishment within those category ranges could

be further broken down into precise fault-based punishments on a monthly basis. As stated by the CAS Panel:

> "*71. In order to determine into which category of fault a particular case might fall, it is helpful to consider both the objective and the subjective level of fault. The objective element describes what standard of care could have been expected from a reasonable person in the athlete's situation. The subjective element describes what could have been expected from that particular athlete, in light of his personal capacities.*
>
> *The Panel suggests that the objective element should be foremost in determining into which of the three relevant categories a particular case falls.*
>
> *The subjective element can then be used to move a particular athlete up or down within that category."*

7.17 Unlike the *Cilic* decision involving a positive test case, the *Poole* decision does not identify the objective and subjective factors that should be considered by an arbitrator in a possession case. Rather, the arbitrator in *Poole* merely identifies the steps that he found Mr. Poole *did not take*.

7.17.1 With respect to objective fault, the arbitrator notes (at par. 7.18) that Mr. Poole was aware of the HISA regulations; attended a HISA seminar which discussed "spring cleaning"; had delegated responsibility for transporting medications / substances between barns which resulted in the Thyro-L being transported from Mr. Poole's barn in Ohio to his barn in Florida; did not undertake any review or oversight of the unpacking of the substances that were transported to his tack room in Barn 5 at Gulfstream Park, Florida; and claimed (at least in his written submissions) that he had poor eyesight. This can hardly be described as a listing of the objective steps that every horse trainer should be expected to take to make sure that he is not in possession of any banned substances.

7.17.2 With respect to subjective fault, the arbitrator notes (at par. 7.20) that Mr. Poole had been operating in his profession under the old system, with different rules, long before (decades before) implementation of the new ADMC Program; that he came into possession of Thyro-L at a time that it was legal / permitted; and there was no evidence that he ever used the Thyro-L with a horse other than King Andres (for whom it was prescribed) or after implementation of the ADMC Program. The arbitrator in Poole summarized his analysis of subjective fault by concluding that "there is no evidence that Mr. Poole either 1) was a cheater, or 2) kept the Thyro-L in his Possession after the implementation of the ADMC Program, for any improper purpose." Again, this can hardly be described as an exhaustive or even detailed listing of the subjective factors that should be considered in a possession case.

7.18 Bearing in mind the minimal guidance provided by *Poole*, and that the ADMC does not require fault in a possession case to be analyzed in a mechanical objective / subjective fault manner, Mr. Puype submits his fault or negligence was not significant in relationship to the Anti-Doping Rule Violation, and is in fact "light."

7.18.1 Applying the "objective" factors test outlined in *Cilic v. ITF* (CAS 2013/A/2237) and to a lesser degree in *Poole*:

7.18.1.1 While Mr. Puype was aware of the ADMC and the fact that Thyro-L and Isoxsupine was banned under the new HISA regulations, he was completely unaware that the containers had been stored in separate areas of his barn for several years, as explained above, despite conducting a cleaning of the barn before implementation of the ADMC Rules. Unlike Mr. Poole, who moved the tub of Thyro-L with him from place to place, here Mr. Puype never moved either substance. He never even touched them.

7.18.1.2 Unlike Mr. Poole, who had taken no oversight of the unpacking of the substances that were in his tack room in the barn during a horse show, here the banned substances were effectively "lost" within Mike Puype's barn and were never moved or touched.

7.18.1.3 Unlike Mr. Poole, who had the Thyro-L on an open shelf in his tack room which he would necessarily have accessed on a regular basis, the Isoxsuprine in this case was found in an igloo cooler in the corner of the room with boots and other items stacked on top of it; and the Thyro-L was found in another room in a locked cabinet for which Mr. Puype did not know the combination.

7.18.1.4 Unlike Mr. Poole, who had the Thyro-L prescribed to a horse with which he had worked within a year or less of when it was discovered by HIWU investigators, the same cannot be said for the Isoxsuprine or Thyro-L found in this case.

7.18.1.5 While the Thyro-L in Poole had been prescribed within one year or less of the date of the possession charge in Poole, meaning that the medication in Poole's case had not expired, the Isoxsuprine and Thyro-L in this case was prescribed many years ago and were long expired.

7.18.1.6 Considering the above facts, and despite the fact that Mr. Puype has already served a sanction of nearly 4 months, Mr. Puype's case should be considered on the "objective factors" to be a "light" degree of fault, with a sanction range between 3-10 months.

7.18.2 Applying the "subjective" factors test outlined in *Cilic v. ITF* (CAS 2013/A/2237) and to a lesser degree in *Poole*:

7.18.2.1 Like Mr. Poole, Mr. Puype has been operating in his profession for nearly four decades prior to the implementation of the ADMC Program.

7.18.2.2 Like Mr. Poole, there is no evidence whatsoever that Mr. Puype intended to cheat or did cheat.

7.18.2.3 Both the Thyro-L and Isoxsuprine were prescribed by Dr. Jeff Blea or a member of his former practice between 2010 and 2019 and that possession was lawful at the time, and up until implementation of the ADMC.

7.18.2.4 Mr. Puype's level of awareness has been reduced by a careless but understandable mistake, in that both substances were kept in isolated locations which he did not have regular access to (and in the case of the locked cabinet, did not know the combination).

7.18.2.5 Based on the objective and subjective factors in this case, it is submitted that the appropriate sanction for the "possession" violations should be at the at the lowest

end of the "light" degree of fault objective range – i.e., a 3-4 month sanction. See also CAS 2005/A/847 *Hans Knauss v FIS,* ¶ 7.3.5 ("the requirements to be met by the qualifying element "no significant fault or negligence" must not be set excessively high. . . .")

7.19 The two possession charges should be treated as a single violation.

7.19.1 As acknowledged in HIWU's Opening Brief at par. 29, "Rule 3070(d) provides that the World Anti-Doping Code ("WADC") and jurisprudence interpreting its provisions may be considered when interpreting and applying the ADMC Protocol." In fact, HIWU notes at par. 31 of its Opening Brief that "The definition of Possession in the ADMC Program are substantively identical to the definition of possession in the WADC."

7.19.2 With the above in mind, the WADA Code and the *lex sportiva* that interprets it is clear that possession of more than one banned substance in a scenario such as this one should be treated as a single violation:

7.19.2.1 Art. 10.9.3.1 of the WADA Code provides: "For purposes of imposing sanctions under Article 10.9, except as provided in Articles 10.9.3.2 and 10.9.3.3, an anti-doping rule violation will only be considered a second violation if the Anti-Doping Organization can establish that the Athlete or other Person committed the additional anti-doping rule violation after the Athlete or other Person received notice pursuant to Article 7, or after the Anti-Doping Organization made reasonable efforts to give notice of the first anti-doping rule violation. If the Anti-Doping Organization cannot establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction, including the application of Aggravating Circumstances."

7.19.2.2 CAS has routinely interpreted this rule in a manner that instructs that Mr. Puype's case should be treated as a single violation. See, e.g., Salazar and Brown v. USADA and WADA (CAS 2019/A/6530 & 6531).

7.19.2.3 The clear purpose of Art. 10.9.3.1 of the WADA Code is that an athlete should not be charged with a second violation unless the conduct at issue arose after they had notice of the first violation, *so that they have an opportunity to change their conduct*. As an example, an athlete who is unknowingly taking a banned substance and tests positive 3 times in a 7-day period before being notified of any of the violations can only be treated with a single violation: holding otherwise would excessively penalize the athlete for the same conduct, with no notice and opportunity to correct it. The exact same must be the case here: because both substances were found on the same day, Mr. Puype had no notice that he was allegedly in possession of *any* banned substances, and if such notice had been provided, her certainly would have made sure that no other banned substances were on the premises.

7.19.3 For these reasons, the Isoxsuprine and Thyro-L possession charges should be treated as a single alleged violation of the ADMC.

7.19.4 Alternatively, rule 3223(c)(2) is not applicable in this case and any sanctions imposed should be served concurrently

7.19.5 Mr. Puype submits that the plain language of Rule 3223(c)(2) does not support consecutive sanctions for first-time offenders, as it makes explicit reference to a Covered Person who is "already serving a period of Ineligibility for another violation of the Protocol." Mike Puype does not fall into that category as the two violations asserted here arose out of a single investigation/transaction:

7.19.5.1 Both substances were found during the April 24, 2024 compliance inspection of Barn 48 at Santa Anita Park conducted by HIWU.

7.19.5.2 Both violations were addressed in a single Notice letter as Mr. Puype received notice that he was being charged with two Anti-Doping Rule Violations of ADMC Program Rule 3214(a) on July 18, 2024 (the same day on which a Provisional Suspension was imposed).

7.19.5.3 HIWU's September 19, 2024 Charging Letter identifies proposed consequences for "a first-time Violation of ADMC Program Rule 3214(a) for each Anti-Doping Rule Violation."

7.19.5.4 Both violations were addressed at the August 28, 2024 Provisional Measures hearing and in the September 2, 2024 Decision of Armand Leone.

7.19.5.5 Mike Puype is not already serving a period of Ineligibility for another violation of the ADMC Rules.

7.19.6 For all of the foregoing reasons, Mike Puype submits that Rule 3223(c)(2) is not applicable in this case, and that any sanctions imposed should be served concurrently.

VIII. ANALYSIS

8.1 The charge at issue in this case is one of Possession under the ADMC Program. Mr. Puype disputes that the elements of that charge have been met and the Parties disagree on any applicable punishment should the elements of the charge of Possession be found to have been met by HIWU.

8.2 There is no dispute that Isoxsuprine and Thyro-L are both Banned Substances prohibited at all times pursuant to the ADMC Program.

8.3 Nor is there any dispute that two bottles of Isoxsuprine Tablets were found in a blue Igloo-brand cooler, which had belonged to Ral Ayers, a former assistant trainer who had left the barn in 2022. The two bottles had long since expired, with expiration dates of 10/2012 and 06/2013, respectively.

8.4 The two containers of Thyro-L, which had also long since expired, with expiration dates of 2016 and 2021, were found on a shelf in a locked storage cabinet in a tack room, which storage cabinet was used for latex gloves and Animalintex hoof poultice pads, and which was

secured by a padlock with a combination known by the assistant trainers whose job involved retrieving the gloves and pads when needed, and that Mr. Puype did not know the combination, and did not open or use the cabinet himself.

Possession

8.5 To establish a charge for Possession under the ADMC Program, HIWU must demonstrate that the elements of the definition of Possession have been met:

> *Possession means actual, physical possession, or constructive possession (which shall be found only if the Covered Person has exclusive control or intends to exercise exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists). If the Covered Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive Possession shall only be found if the Covered Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. There shall be no Anti-Doping or Controlled Medication Rule violation based solely on Possession if, prior to receiving notification of any kind of any violation, the Covered Person has taken concrete action demonstrating that the Covered Person never intended to have possession and has renounced possession by explicitly declaring it to the Agency.*

8.6 The Parties debate whether Mr. Puype had exclusive control of the premises, specifically including the cooler and locked cabinet in which the Banned Substances were found. The assistant trainers had access to all areas of premises, such that Mr. Puype did not have exclusive control, as that word is commonly used.

8.7 However, on this point, the Arbitrator agrees with HIWU that a trainer has exclusive control of a premises (i.e., barn) where Banned Substances are located will be established even if individuals under a Trainer's direction, such as their assistant trainers, had access to their barn. The Seized Substances were found in a barn marked with Mr. Puype's signage, in a secured area within Santa Anita Park inaccessible to the public, and kept locked (including when Mr. Puype and his staff were at Del Mar for the summer). The rooms within Mr.Puype's barn where the Seized Substances were found were not used by anyone other than Mr. Puype and his staff.

8.8 While there could be circumstances in which someone's personal property, such as a backpack containing personal belongings (lunch, wallet, car keys), brought to the barn would be deemed not to be in the exclusive possession of the trainer responsible for the barn premises, that is not this case. The cooler had previously been used by a former employee (Ral Ayers) to transport medicine between locations (Santa Anita and Del Mar), and the locked cabinet was used by the barn to store items bought in bulk that might otherwise be "borrowed" by persons coming through the barn.

8.9 The Arbitrator agrees that someone needs to be responsible for the barn premises, and, in this case, that someone should be the person who is in charge of the premises, here the

trainer, Mr. Puype. Accordingly, the Arbitrator finds that Mr. Puype was in possession of the Banned Substances, Isoxsuprine and Thyro-L, by virtue of their being found in his barn.

8.10 The Arbitrator rejects HIWU's alternative contention, that Mr. Puype had constructive possession because he and/or his staff knew that the Seized Substances were located in his barn and intended to exercise control over them.

8.11 With regard to the two containers of Isoxsuprine, which had expired in 2012 and 2013, they were found in the blue cooler which had been left in a corner of a tack room by a former assistant trainer, Ral Ayers, who had left the stable in 2022. There was *no evidence* that Mr. Puype or his assistant trainers had ever opened the cooler. Mr. Puype was not aware it was there, and the assistant trainers knew it had belonged to Ral Ayers and testified that they had never opened it. The cooler did not belong to Mr. Puype, and none of the contents of the cooler belonged to him. Alfredo Garcia testified that the blue cooler had been in a corner with boots and other things piled on it for many years.

8.12 With regard to the Thyro-L found in the locked cabinet, one cannister was open and unused, with an expiration date of 03/21, the other cannister was mostly empty and bore a prescription label dated 2/22/16. The evidence established that only Pancho and Alfredo Garcia knew the combination to access the cabinet, as both make use of it; Mr. Puype did not know the combination, as he had never previously opened this cabinet and had not personally used this cabinet at all. Alfredo and Pancho Garcia confirmed that the only things in the locked cabinet of which they were aware were the latex gloves (bought in quantity from Costco) and the Animalintex hoof poultice pads. When shown the photos taken by the HIWU inspectors of the Thyro-L in the cabinet, on the same shelf as a dosing syringe, Alfredo Garcia and Pancho Garcia, testified credibly that they were not aware of the Thyro-L containers, didn't know what the dosing syringe was, and had never focused on anything in the cabinet except for the latex gloves and Animalintex hoof poultice pads.

8.13 Neither Mr. Puype, nor his assistant trainers, were aware that the two containers of Isoxsuprine were in the blue cooler, or that the containers of Thyro-L were in the locked storage cabinet. Mr. Puype asserts that if he had seen them, he would have disposed of them immediately, which is consistent with his directions to his assistant trainers to dispose of any expired medication they came across. Mr. Puype, Alfredo Garcia, and Pancho Garcia all strongly deny administering the Isoxsuprine or Thyro-L to any horse, or ever seeing any other person administer the Isoxsuprine or Thyro-L to any horse, and there was no evidence of any administration since the medications became Banned Substances.

8.14 Accordingly, the Arbitrator finds that Mr. Puype did not have constructive possession because neither he nor his staff knew that the Seized Substances were located in his barn, nor did they intend to exercise control over them.

Punishment-Ineligibility

8.15 Having determined that Mr. Puype committed the act of Possession under the ADMC Program, the Arbitrator turns to the question of the appropriate period of ineligibility.

8.16 HIWU seeks the imposition of the following Consequences on Trainer Puype for each of the two Possession ADRVs charged against him:

a. A period of Ineligibility between seventeen (17) months and two (2) years;
b. A fine of USD $25,000 and payment of some or all of the adjudication costs; and
c. Public Disclosure pursuant to Rule 3620 and all other Consequences which may be required by the ADMC Program, including its supporting rules and documents.

8.17 Mr. Puype argues that if the Arbitrator finds that he has committed Anti-Doping Rule Violation(s) of ADMC Rule 3214(a) (Possession of a Banned Substance), he bears No Significant Fault or Negligence for the violations, and the appropriate sanctions for the "possession" violations in this case are 3–4-month sanctions (served concurrently), or time served, imposed on Mr. Puype.

8.18 For the reasons set forth above, the Arbitrator finds Mr. Puype has committed two Anti-Doping Rule Violations of ADMC Rule 3214(a) (Possession of a Banned Substance). The Arbitrator agrees, for the reasons set forth above by Respondent, that Mr. Puype bears No Significant Fault or Negligence for the violations, and the appropriate sanctions for the "possession" violations in this case are 3–4-month sanctions (served concurrently), or time served.

8.19 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.

8.20 The Arbitrator looks to *Cilic v. ITF* (CAS 2013/A/2237) ("*Cilic*") for guidance in interpreting the appropriate period of ineligibility. Cilic divided the degree of fault into three ranges, based upon the following degrees of fault:

a. Significant degree of or considerable fault.
b. Normal degree of fault.
c. Light degree of fault.

8.21 Applying these three categories to the possible sanction range there of 0 – 24 months, the *Cilic* Panel arrived at the following sanction ranges: a. Significant degree of or considerable fault: 16 – 24 months, with a "standard" significant fault leading to a suspension of 20 months. b. Normal degree of fault: 8 – 16 months, with a "standard" normal degree of fault leading to a suspension of 12 months. c. Light degree of fault: 0 – 8 months, with a "standard" light degree of fault leading to a suspension of 4 months.

8.22 *Cilic* also instructs that in order to determine into which category of fault a particular case might fall, it is helpful to consider both the objective and the subjective level of fault. The objective element describes what standard of care could have been expected from a reasonable person in the athlete's situation. The subjective element describes what could have

been expected from that particular athlete, in light of his personal capacities. The objective element should be foremost in determining into which of the three relevant categories a particular case falls; the subjective element then may move a particular athlete up or down within that category.

8.23 Roughly adhering to the *Cilic* ranges here, on the three (3) to twenty-four (24) months overall range, the Arbitrator adopts a period of three (3) to ten (10) months as light fault; the period of ten (10) to seventeen (17) months as moderate fault; and the period of seventeen (17) months to twenty-four (24) months as significant fault.

8.24 The Arbitrator finds persuasive Respondent's application of the *Cilic* test and its objective and subjective factors. Para. 7.18 *supra*. Mr. Puype is responsible for an imperfect "search and purge." He undertook the search and purge in good faith, and instructed his assistant trainers, Alfredo and Pancho Garcia, to search through the mediations in the barn and to discard any that were expired or questionable. The testimony established that Alfredo and Pancho Garcia conducted a search of the room in the barn where they kept medication, and discarded anything that was expired or questionable. Alfredo and Pancho Garcia had worked in Mr. Puype's stable for more than a decade, and were responsible for administering medication to the horses. They knew where the medication was located in the barn, and searched that area.

8.25 The assistant trainers, Alfredo and Pancho Garcia, did not search the blue cooler, because they had never opened it or used it to store medication, nor did they search the storage cabinet because they used it only occasionally to get latex gloves and hoof poultice pads, and had never used it to store or retrieve medication.

8.26 The Arbitrator considers the objective factors enumerated above at para. 7.18, including that Mr. Puype had no reason to believe the long-expired Isoxsuprine or Thyro-L was in the barn, considering that it had been prescribed long ago, and that the Isoxsuprine was found in an igloo cooler in the corner of the room with boots and other items stacked on top of it; and the Thyro-L was found in another room in a locked cabinet for which Mr. Puype did not know the combination. The Arbitrator concludes Mr. Puype's case should be considered on the "objective factors" to be a "light" degree of fault, with a sanction range between 3-10 months.

8.27 Considering the subjective factors enumerated above at para 7.18, including that there is no evidence whatsoever that Mr. Puype intended to cheat or did cheat, and that both the Thyro-L and Isoxsuprine were prescribed by Dr. Jeff Blea or a member of his former practice between 2010 and 2019 and that possession was lawful at the time, and up until implementation of the ADMC, the Arbitrator concludes that Mr. Puype made a careless but understandable mistake in not searching every location within the barn, including areas to which he did not have regular access, or know the combination to a locked cabinet.

8.28 As a result, the Arbitrator determines that Mr. Puype should receive the benefit of a reduction in his level of fault, to the low end of the "light" degree of fault objective range, to a three to four (3-4) month range.

8.29 The Arbitrator finds that the appropriate sanction for the possession violations within the three to four month range is three months and seventeen days, the time already served.

8.30 HIWU seeks the imposition of a period of Ineligibility for each of the two violations asserted to be served consecutively. HIWU bases this request on ADMC Rule 3223(c)(2), which provides as follows:

> *When a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.*

8.31 The Arbitrator concludes that the plain language of Rule 3223(c)(2) does not support consecutive sanctions for first-time offenders, as it makes explicit reference to a Covered Person who is "already serving a period of Ineligibility for another violation of the Protocol." Mr. Puype does not fall into that category as the two violations asserted here arose out of a single April 24, 2024 compliance inspection of Barn 48 at Santa Anita Park conducted by HIWU, both violations were addressed in a single Notice letter as Mr. Puype received notice that he was being charged with two Anti-Doping Rule Violations of ADMC Program Rule 3214(a) on July 18, 2024, (the same day on which a Provisional Suspension was imposed), and HIWU's September 19, 2024 Charging Letter identifies proposed consequences for "a first-time Violation of ADMC Program Rule 3214(a) for each Anti-Doping Rule Violation."

8.32 Mr. Puype is not already serving a period of Ineligibility for another violation of the ADMC Rules.

8.33 Further, as noted above (para.7.19) HIWU's interpretation of ADMC Rule 3223(c)(2) is at odds with Art. 10.9.3.1 of the WADA Code, upon which the ADMC was based. The purpose of Art. 10.9.3.1 of the WADA Code is that an athlete should not be charged with a second violation unless the conduct at issue arose after they had notice of the first violation, so that they have an opportunity to change their conduct.

8.34 HIWU argues that Article 10.9.3.1 of the WADA Code is not applicable because Rule 3070(d) of the ADMC Program does not mandate the automatic application of all WADA Code provisions in cases adjudicating ADRVs under the ADMC Program, but rather the WADA Code and related documents are to be considered "where appropriate." HIWU argues further that it is not appropriate to import wholesale Article 10.9.3.1 of the WADA Code into the ADMC Program because it conflicts with Rule 3228(c)(2).

8.35 The Arbitrator is not adopting or incorporating Article 10.9.3.1 of the WADA Code. Rather, the Arbitrator is reading the plain language of Rule 3223(c)(2), and taking guidance from how the WADA Code would apply to the situation, and taking further guidance from the logic behind not penalizing the athlete, or the trainer, for the same conduct, without having had an opportunity to correct the problem and change the conduct. CAS has routinely interpreted this rule in a manner that instructs that Mr. Puype's case should be treated as a single violation. *See, e.g.*, *Salazar and Brown v. USADA and WADA* (CAS 2019/A/6530 & 6531).

8.36 Accordingly, the Arbitrator holds that Rule 3223(c)(2) does not support consecutive sanctions for a first time offender who is charged with two violations that arose from the same investigation, and that the sanctions imposed should be served concurrently.

Punishment-Fine, Payment Toward Legal Fees and Arbitration Costs

8.37 Under the ADMC Program, the punishment includes, in addition to a period of Ineligibility, a "Fine up to $25,000 . . . and Payment of some or all of the adjudication costs and [HIWU]'s legal costs." Rule 3223(b).

8.38 The amount of the fine, although mandatory, appears to be discretionary with the Arbitrator, though some amount of fine appears to be mandatory. The Arbitrator is of the view that the fine should follow the fault.

8.39 Here, however, there was no indication of any intention or wrongdoing by Mr. Puype, other than the an imperfect "search and purge." As set forth above, the fault was in the lowest end of the "light" range.

8.40 Further, it is not clear to the Arbitrator what HIWU was attempting to accomplish in the way it prosecuted this matter. Although the facts established nothing more than an imperfect search, HIWU filed its standard "Possession" charges and brief (labeled "HIWU's Pre-Hearing Brief (Possession)") and negligently failed to remove the name of the prior trainer against whom the brief had been filed ("Trainer Valery,") from the text. HIWU further sought the maximum punishment, two consecutive periods of ineligibility for seventeen – twenty-four (17 – 24) months each, a career ending sanction.

8.41 The Arbitrator determines that on the facts of this case, considering the lowest level of fault of Mr. Puype and the overcharging by HIWU, the fine should be set at $1,000. This is an imprecise calculation but one that the Arbitrator determines to be appropriate under the circumstances. The fine is to be paid to HIWU within thirty days of the date of the Final Decision..

8.42 With respect to issues of costs to be assessed, for the reasons set forth above, the Arbitrator denies HIWU's request for reimbursement of or contribution to its legal fees in this case.

IX. AWARD

9.1 On the basis of the foregoing facts, legal analysis, and conclusions of law, the Arbitrator renders the following decision:

a. Mr. Puype is found to have committed his first anti-doping rule violations, specifically two Possession ADRVs, discovered during an April 24, 2024 routine search by HIWU inspectors. As a result, Mr. Puype shall:

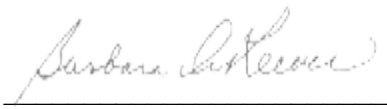
1. Be suspended for a period of Ineligibility of three months and seventeen days for the two violations, running concurrently, commencing July 18, 2024, the effective date of his provisional suspension, and ending on November 4, 2024, time served.

2. Be fined $1,000 to be paid to HIWU within thirty days.

b. This Decision shall be in full and final resolution of all claims and counterclaims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

IT IS SO ORDERED AND AWARDED.

Dated: December 12, 2024



Barbara A. Reeves, Arbitrator