

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

*ADMINISTERED BY JAMS, CASE NO. 1501001139*

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In the Matter of the Arbitration Between:

HORSERACING INTEGRITY & WELFARE UNIT (“HIWU” or “Agency”),  
Claimant

v.

VANCE CHILDERS (“Trainer Childers”),  
Respondent.

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**FINAL DECISION**

I, the undersigned arbitrator, having been designated, authorized, duly sworn, and having duly heard and considered the allegations, arguments, submissions, proofs, testimony, and evidence submitted by the Parties, and after a full evidentiary hearing occurring by agreement of the Parties by a virtual Zoom presentation on January 28, 2026, 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 Trainer Vance Childers being charged with three separate Anti-Doping Rule Violations (“ADRVs”) of the Anti-Doping and Medication Control Program.

1.2 The first alleged ADRV, as explained in more detail below, involves the possession of a banned substance, in violation of Rule 3214(a) of the Anti-Doping and Medication Control Program. This charge is referred to herein as the “Possession ADRV.”

1.3 The second and third alleged ADRV, as explained in more detail below, involve the presence of a banned substance in Covered Horses, in violation of Rule 3212 of the Anti-Doping and Medication Control Program. These charges are referred to herein as the “Presence ADRVs.”

1.4 HIWU is the United States government-recognized agency 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. §§ 3051-3060. During these proceedings, HIWU was represented by Allison Farrell, Esq., Senior Litigation Counsel of HIWU and Carlos Sayao, Esq., of Tyr LLP based in Toronto, Canada.

1.5 Trainer Childers is a trainer of Thoroughbred racehorses. It is undisputed that Trainer Childers is a “Covered Person” under the law and rules applicable to this Arbitration. Trainer Childers is charged with the above-referenced ADRVs and has been represented in these proceedings by Lloyd Cueto, Esq., of the Law Office of Lloyd M. Cueto, P.C. based in Belleville, Illinois.

1.6 Throughout this Final Decision, HIWU and Trainer Childers 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 upon the Parties’ written submissions, pleadings, evidence, and testimony presented during the hearings. Additional facts and allegations found in the Parties’ written submissions, pleadings, and evidence may be addressed where relevant in connection with the discussion elsewhere in this Final Decision. Although the Arbitrator has considered all of the facts, allegations, legal arguments, evidence, and testimony submitted by the Parties in these proceedings, the Arbitrator refers, in this Final Decision, only to the arguments, facts, submissions, evidence, and testimony the Arbitrator considers necessary in explaining the reasoning supporting this decision. As noted below, the Parties have conferred and agreed to a list of stipulated facts. In addition to the stipulated facts, additional facts, and the legal effect of many facts, remain in dispute.

### **The Stipulated Facts**

2.2 On January 23, 2026, the Parties submitted an Uncontested Stipulation of Fact stating as follows:

1. Trainer Childers is a Covered Person under the Anti-Doping and Medication Control Program (“ADMC Program”) pursuant to ADMC Program Rule 3020, and a Responsible Person pursuant to Rule 3030.

#### Facts Relevant to Possession Charges

2. On November 12, 2024, HIWU Investigator Matthew Meyer (“Investigator Meyer”) and HIWU Director of Investigative Operations Shawn Loehr (collectively, the “Investigators”), conducted a search of Trainer Childers’ tack room, feed room, office, and barn area (the “Search”) at the Fairmount Park Racetrack in Collinsville, Illinois (“Fairmount Park”). Trainer Childers was not present for the search. Hunter Childers identified and led the Investigators to the spaces for which Trainer Childers was responsible.
3. During the Search, the Investigators found and seized one tub labeled “Easywillow,” located on a shelf in Trainer Childers’ tack room.
4. The Banned Substance Kava Kava was listed on the label of the tub.

5. Kava Kava can also be known as “Kava” or Piper Methysticum, which is a category S0 Banned Substance under the ADMC Program.
6. Following the Search, a sample of the “Easywillow” product was sent for forensic analysis to Industrial Laboratories (“Industrial”). Industrial’s results confirmed the presence of the primary active compound found in Kava Kava, Methysticin.
7. On April 3, 2025, Trainer Childers was served with an Equine Anti-Doping (“EAD”) Notice Letter. This Notice Letter informed Trainer Childers that he was found to be in Possession of the Banned Substance located by the Investigators during the November 12, 2024 Search of his tack room (among other areas).
8. On April 21, 2025, HIWU charged Trainer Childers with one Possession ADRV.
9. Trainer Childers did not submit a responding Pre-Hearing Brief on the Possession charge and did not file any evidence or submissions pertaining to the Possession charge before the merits hearing.

Facts Relevant to Presence Charges

10. Childersattack and Tigger Attack are both Covered Horses trained by Trainer Childers and medically cared for by Dr. Donald McCrosky (“Dr. McCrosky”).

Childersattack- Sample #B100526490

11. Childersattack had a negative result (i.e., no presence of Testosterone) from a Vet’s List Sample collected on September 24, 2024, Sample #B100525575, as analyzed by Industrial.
12. On October 16, 2024, Sample Collection Personnel collected an Out-of-Competition blood Sample from Childersattack at Fairmount Park, Sample #B100526490. Childersattack was identified as a gelding on the Sample Collection Form for this test.
13. Analytical testing on Childersattack’s Out-of-Competition blood A Sample was conducted by Industrial. Industrial’s testing returned an Atypical Finding (“AF”) for Testosterone at a concentration of 579 pg/mL.
14. On November 12, 2024, HIWU notified Trainer Childers of an AF for Testosterone in the Sample collected from Childersattack.
15. On November 12, 2024, Dr. McCrosky sent a handwritten note to HIWU in response to the November 2024 Notice Letter. In the note, Dr. McCrosky states that he performed a castration on Childersattack in March 2022, but the horse had one Testosterone-producing undescended testicle left intact after the castration.
16. On December 10, 2024, HIWU sent a Demand for Business Records (“DBR”) to Dr. McCrosky that requested that he disclose Childersattack’s medical records and subsequently requested that Childersattack be made available for examination. Dr. McCrosky did not respond to those requests.
17. On March 12, 2025, Trainer Childers was served with an EAD Notice Letter for

the Adverse Analytical Finding (“AAF”) resulting from Childersattack’s Sample collected on October 16, 2024.

18. On April 2, 2025, Dr. McCrosky sent a second handwritten note to HIWU stating that he had removed the remaining testicle from Childersattack on December 2, 2024.
19. On June 5, 2025, Trainer Childers was served with a Charge Letter resulting from the AAF for Childersattack. The Charge Letter enclosed the analysis of the B Sample that was conducted by the Pennsylvania Equine Toxicology and Research Laboratory (“PETRL”), which confirmed the AAF for Testosterone in the Sample at a concentration of 496.0 pg/mL.
20. Industrial subsequently confirmed that Childersattack’s Sample was negative for Nandrolone.

*Tigger Attack-Sample #B100527217*

21. On October 29, 2024, Sample Collection Personnel collected a Post-Race Sample from Tigger Attack after Race 2 at Fairmount Park, with Sample #B100527217. The Sample Collection Form identified Tigger Attack as a gelding.
22. Analytical testing on Tigger Attack’s Post-Race blood A Sample was conducted by Industrial. Industrial’s testing returned an AF for Testosterone at a concentration of 374 pg/mL.
23. On November 20, 2024, HIWU notified Trainer Childers of an AF for Testosterone in the Sample collected from Tigger Attack.
24. On February 14, 2025, Trainer Childers was served with an EAD Notice Letter for the AAF resulting from Tigger Attack’s Sample collected on October 29, 2024.
25. On March 5, 2025, Trainer Childers was served with a Charge Letter resulting from the AAF for Tigger Attack. The Charge Letter enclosed the analysis of the B Sample that was conducted by PETRL, which confirmed the Presence of Testosterone in the Sample at a concentration of 363.5 pg/mL.
26. On April 22, 2025, Investigator Meyer and fellow HIWU Investigator Montey Chappel conducted an interview of Dr. McCrosky at Fairmount Park. During the interview, Dr. McCrosky discussed the AAF for Testosterone in Tigger Attack and admitted to administering Testosterone to Tigger Attack as he was advised by a groom that the horse was not eating well. Dr. McCrosky further stated that he tries to make sure that he administers Testosterone no fewer than seven to ten days out from a race and that he does not regularly use Testosterone. Instead, he described his use of Testosterone as only every once in a while and only if a horse is not eating.
27. Dr. McCrosky testified under oath in a separate ADMC Program arbitration hearing that: (i) he generally administers 1 cc of Testosterone to Covered Horses at least 5-6 days before a race if the horse is not eating or “off-feed”, in order to stimulate their appetites; (ii) he administered Testosterone to Tigger Attack 5 days before his

October 29, 2024, race because he was off-feed; (iii) and that Trainer Childers was not involved in and did not know anything about the administration of Testosterone to Tigger Attack.

### **Additional Facts According to HIWU**

- 2.3 During the November 12, 2024 search, “Hunter Childers told the Investigators that the ‘Easywillow’ had never been used.” (HIWU Possession Br. ¶ 13.)
- 2.4 On April 21, 2025, Dr. Mary Scollay “performed a search of the InCompass database, a Jockey Club platform that serves as a repository of identifying and descriptive data concerning Covered Horses. The InCompass search result showed that Childersattack’s owner, Dr. McCrosky’s wife, reported the horse as a ‘gelding’ with a castration date of November 23, 2020. There was no indication anywhere in the InCompass search results that the horse had a remaining testicle.” (HIWU Presence Br. ¶ 27.)
- 2.5 HIWU’s Presence brief also states that “A search of HIWU records performed by Investigator Meyer also showed no record of castration in December 2022.” (*Id.*) A review of Exhibit G, p. 214 of HIWU’s Supplemental Book of Evidence and Exhibits, Investigator Meyer’s Second Witness Statement (“Second Meyer Statement”), dated December 31, 2025 at para. 7, however, reveals Meyers’ actual statement that upon review of the HISA Portal search records he found no record of the performance of castration in December 2024. Accordingly, the Arbitrator assumes the December 2022 date in HIWU’s brief is a typographical error.

### **Additional Facts According to Trainer Childers**

- 2.6 Trainer Childers inherited his barn, including the tack room, from his grandfather. He took over as Trainer in 2020 when his grandfather passed away.
- 2.7 Trainer Childers’ grandfather used Dr. McCrosky as his vet.
- 2.8 After taking over the barn from his grandfather, Trainer Childers threw away thyroid powder that he found, but did not conduct a thorough search of all items in the barn or review the ingredient lists of all products in the barn.
- 2.9 Trainer Childers never purchased the Easywillow product nor did he ever use it.
- 2.10 Trainer Childers never administered Testosterone to his horses.
- 2.11 No Testosterone was found in Trainer Childers’ barn during the search.

## **III. PROCEDURAL HISTORY**

- 3.1 On February 14, 2025, HIWU served Trainer Childers with an EAD notice stating that the October 29, 2024 blood Sample, designated as Sample #B100527217, from Tigger Attack after Race 2 at FanDuel Sportsbook and Horseracing in Collinsville, Illinois,

had returned an AAF for Testosterone following analysis of the B Sample.

- 3.2 On March 5, 2025, HIWU notified Trainer Childers that it was charging him with a violation of Rule 3212 for the Presence of Testosterone in Tigger Attack's Sample #B100527217.
- 3.3 On March 12, 2025, HIWU served Trainer Childers with an EAD notice stating that the October 16, 2024 out-of-competition blood Sample, designated as Sample #B100526490, from Childersattack at FanDuel Sportsbooks and Horseracing in Collinsville, Illinois, had returned an AAF following analysis of the B Sample.
- 3.4 On April 3, 2025, HIWU served Trainer Childers with an EAD notice stating that on November 12, 2024, he was found in possession of a Banned Substance, specifically that a tub labeled "Easywillow" contained the listed and active ingredient Kava Kava, a category S0 Banned Substance.
- 3.5 On April 21, 2025, HIWU notified Trainer Childers that it was charging him with a violation of Rule 3214(a) for the Possession of the Banned Substance Kava Kava.
- 3.6 On June 5, 2025, HIWU notified Trainer Childers that it was charging him with a violation of Rule 3212 for the Presence of Testosterone in Childersattack's Sample #B100526490.
- 3.7 On August 18, 2025, HIWU initiated this arbitration against Trainer Childers pursuant to Rule 7060(a).
- 3.8 On September 2, 2025, the Arbitrator held a preliminary conference hearing.
- 3.9 On October 3, 2025, HIWU submitted a proposed procedural order.
- 3.10 On October 16, 2025, the Parties submitted an updated proposed procedural order.
- 3.11 As memorialized in Procedural Order #1, dated October 16, 2025, the Arbitrator confirmed the hearing date of January 28, 2026 at 9:00 a.m. local time at JAMS Chicago, 71 S. Wacker Drive, Suite 2400, Chicago, Illinois 60606, and set a pre-hearing briefing schedule consistent with the nature of the charges: (1) Claimant's pre-hearing brief on possession and Respondent's pre-hearing brief on presence were due by December 17, 2025; (2) Claimant's response brief on presence and Respondent's response brief on possession were due by January 7, 2026; and (3) Claimant's reply brief on possession was due by January 14, 2026.
- 3.12 On October 27, 2025, JAMS served the Parties with a Notice of Hearing confirming the hearing date, time, and location set forth in Procedural Order #1.
- 3.13 On December 17, 2025, HIWU filed its pre-hearing brief on possession, book of evidence and exhibits, and book of authorities.
- 3.14 On December 22, 2025, Respondent filed his pre-hearing brief on presence and witness list.

- 3.15 On January 2, 2026, Respondent filed a motion for leave to appear virtually for the hearing. Respondent requested permission that both Respondent and witness Dr. McCrosky be permitted to appear by video.
- 3.16 The same day, HIWU informed the Arbitrator that it did not object to Respondent and Dr. McCrosky appearing by video conference for the hearing.
- 3.17 On January 6, 2026, the Arbitrator issued an order granting Respondent's request that both Respondent and Dr. McCrosky be allowed to participate in the January 28, 2026 arbitration hearing by Zoom video conference.
- 3.18 On January 7, 2026, HIWU filed its pre-hearing brief on presence and global sanction, along with a supplemental book of evidence and exhibits, and a supplemental book of authorities.
- 3.19 Respondent failed to submit a response brief on possession by the January 7, 2026 deadline, or at any time thereafter.
- 3.20 On January 20, 2026, the Arbitrator held a pre-hearing conference. At the pre-hearing conference, the Parties agreed that, by the end of the week, they would submit a stipulation of any undisputed facts and an arbitration hearing day schedule, and that HIWU would provide a list of witnesses to testify during the hearing. The Parties further agreed that the hearing would be held entirely by video conference and would commence at 10:00 a.m. eastern on January 28, 2026.
- 3.21 On January 23, 2026, HIWU submitted its witness list.
- 3.22 Also on January 23, 2026, the Parties submitted a proposed, agreed upon hearing schedule and an Uncontested Stipulation of Facts.
- 3.23 The Arbitrator and Parties convened for the scheduled hearing in this matter on January 28, 2026, at approximately 10:00 a.m., with the Arbitrator, counsel for Claimant, Respondent and his counsel all appearing virtually.
- 3.24 At the hearing, the Arbitrator admitted all of the submitted exhibits and heard the testimony of three (3) witnesses: Matthew Meyer, an investigator employed by HIWU; Dr. Mary Scollay, formerly employed by HIWU as Chief of Science; and Trainer Childers. In addition, Trainer Childers waived his cross-examination of the following two witnesses put forward by HIWU and their witness statements were admitted: Petra Hartmann, Director of Drug Testing at Industrial, and Dr. Mary Robinson, Acting Director of PETRL.
- 3.25 At the conclusion of the hearing, the Parties agreed to meet and confer following the issuance of the final decision in the matter of *HIWU v. McCrosky*, and determine if they would like to submit additional briefing in light of the decision.
- 3.26 On February 4, 2026, the Parties informed the Arbitrator that they were expecting the

final decision in the *McCrosky* case within the next couple of days and would file it upon receipt, and that “[n]either party requests to supplement their respective closing arguments with further briefing, but will of course do so if you wish to have additional briefing before closing the hearing . . . .”

- 3.27 On February 11, 2026, HIWU submitted the Final Decision in *HIWU v. McCrosky*.
- 3.28 On February 17, 2026, the Arbitrator informed the parties that “after reviewing the decision, I will provide the parties with any questions impacting the Childers matter.”
- 3.29 On March 11, 2026, the Arbitrator requested that the Parties “submit briefs to answer the following question: What impact, if any, does the content, analysis, and conclusions of the McCrosky decision have upon HIWU’s requested relief based upon the alleged HISA and ADMC program violations pending against Trainer Vance Childers in this matter.”
- 3.30 On March 16, 2026, the Parties informed the Arbitrator that they proposed to submit the additional requested briefing by simultaneous exchange on March 31, 2026, and further agreed to extend the time for the delivery of the final decision to 30 days from the close of the hearing.
- 3.31 On March 16, 2026, the Arbitrator issued a Post Hearing Briefing Order confirming the agreed upon schedule for the requested post-hearing briefs and that the timing for the submission of the final decision in this matter was extended until 30 days after the filing of the Parties’ briefs.
- 3.32 On March 31, 2026, the Parties submitted their post-hearing briefs regarding the impact of the *McCrosky* decision.
- 3.33 Upon the closing of the record, the Arbitrator commenced writing this Final Decision, which was timely issued.

#### **IV. JURISDICTION**

4.1 HIWU was created pursuant to the Horseracing Integrity and Safety Act of 2020, 15 U.S.C. §§ 3051-3060 (“Act”) and is charged with administering the rules and enforcement mechanisms of the 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 Covered Persons:

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

. . .

(3) 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 Pursuant to section 3054 of the Act, “Covered Persons” must register with the Horseracing Integrity and Safety Authority (the “Authority”). However, they are bound by the Protocol by undertaking the activity (or activities) that make(s) them a Covered Person, whether or not they register with the Authority.

4.3 ADMC Program Rule 3030(a) further defines a “Responsible Person” to mean: “the Trainer of the Covered Horse.”

4.4 Trainer Childers is a trainer who is required to be and is registered with the Authority. As such, the Respondent is both a “Responsible Person” and a “Covered Person” who is bound by and subject to the ADMC Program.

4.5 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. . . .”

4.6 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.”

4.7 In this case, arbitration proceedings were commenced before JAMS, the designated arbitration provider. Trainer Childers had notice of the charges against him. The Parties have fully participated in this Arbitration without any objection to the Arbitrator’s jurisdiction or the arbitrability of any issues raised in this arbitration, including all issues related to the charged Possession ADRV and Presence ADRVs.

4.8 The Arbitrator concludes, without objection, that the Arbitrator has jurisdiction over the charges at issue in this matter. *See* Rule 7090 (arbitrator has authority to rule on his jurisdiction; party must object to challenge jurisdiction).

## V. RELEVANT LEGAL STANDARDS

5.1 It is undisputed that under the ADMC Program, Trainer Childers as a trainer is a Covered Person and a Responsible Person, and that Tigger Attack and Childersattack are each a Covered Horse. What follows is a summary of the relevant legal standards. Additional authority may be set out, where relevant, in connection with the legal discussion elsewhere in this Final Decision.

5.2 The burden of proof depends on the nature of the alleged ADRV. Rule 3121 provides as follows:

“Rule 3121. Burden and Standard of Proof

(a) The Agency shall have the burden of establishing that a violation of the Protocol has occurred to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability (*i.e.*, a preponderance of the evidence) but less than clear and convincing evidence or proof beyond a reasonable doubt.

(b) Where the Protocol places the burden of proof on a Covered Person to rebut a presumption or to establish specified facts or circumstances, the standard of proof shall be by a balance of probability (*i.e.*, a preponderance of the evidence), except as provided in Rules 3122(c) and 3122(d).”

5.3 The World Anti-Doping Code (“WADC”) provides the framework for a harmonious international anti-doping system and is widely used in international sports, and expressly acknowledged as the basis for the ADMC Program. Rule 3070 provides in

pertinent part that:

“(b) Subject to Rule 3070(d), the Protocol shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes. . . .

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

5.4 ADMC Program Rule 3040 sets out certain obligations of a trainer such as Trainer Childers, as both a Covered Person and a Responsible Person, in pertinent part as follows:

“Rule 3040 Core Responsibilities of Covered Persons

(a) Responsibilities of All Covered Persons

It is the personal responsibility of each Covered Person: (1) to be knowledgeable of and to comply with the Protocol and related rules at all times. All Covered Persons shall be bound by the Protocol and related rules, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all Covered Persons to familiarize themselves with the most up-to-date version of the Protocol and related rules and all revisions thereto; . . .

(b) Additional Responsibilities of Responsible Persons

In addition to the duties under Rule 3040(a), it is the personal responsibility of each Responsible Person: . . .

(4) to inform all Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in any way with the care, treatment, training, or racing of his or her Covered Horses of their respective obligations under the Protocol (including, in particular, those specified in Rule 3040(a));

(5) to adequately supervise all Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in any way with the care, treatment, training or racing of his or her Covered Horses, including by (without limitation):

(i) conducting appropriate due diligence in the hiring process before engaging their services;

(ii) clearly communicating to such Persons that compliance with the Protocol is a condition of employment or continuing engagement in the care, treatment, training, or racing of his or her Covered Horses;

(iii) creating and maintaining systems to ensure that those Persons comply with the Protocol; and

(iv) adequately monitoring and overseeing the services provided by those Persons in relation to the care, treatment, training or racing of his or her Covered Horses;

(6) to bear strict liability for any violations of the Protocol by such Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in the care, treatment, or racing of his or her Covered Horses; . . .”

5.5 Pursuant to ADMC Program Rule 3223, the consequences for a first anti-doping violation related to Rule 3212 (presence) or Rule 3214(a) (possession) are:

a. Two (2) years of Ineligibility, and

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

5.6 Where a violation of the ADMC Program is established, the Respondent may be entitled to a mitigation of the applicable Consequences, only where he establishes on a balance of probabilities that he acted with either No Fault or Negligence or No Significant Fault or Negligence. In Rule 1020, Fault is defined in the ADMC Program as:

“. . . any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a Covered Person’s degree of Fault include (but are not limited to) the Covered Person’s experience and special considerations such as impairment, the degree of risk that should have been perceived by the Covered Person, and the level of care and investigation exercised by the Covered Person in relation to what should have been the perceived level of risk. With respect to supervision, factors to be taken into consideration are the degree to which the Covered Person conducted appropriate due diligence, educated, supervised, and monitored Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in any way with the care, treatment, training, or racing of his or her Covered Horses, and created and maintained systems to ensure compliance with the Protocol. In assessing the Covered Person’s degree of Fault, the circumstances considered must be specific and relevant to explain the Covered Person’s departure from the expected standard of behavior. Thus, for example, the

fact that the Covered Person would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Covered Person or Covered Horse only has a short time left in a career, 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.”

5.7 ADMC Program Rule 3224 permits the reduction of sanctions where there is No Fault or Negligence, as follows:

“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). . . .

(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. . . .”

5.8 No Fault or Negligence is defined by the ADMC Program as:

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

5.9 ADMC Program Rule 3225 also allows for the reduction of sanctions where there is No Significant Fault or Negligence, as follows:

“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."

5.10 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."

#### Possession ADRV Charge

5.11 It is alleged that Trainer Childers violated ADMC Program Rule 3214(a) regarding the possession of a Prohibited Substance.

5.12 Rule 3214 provides as follows: "The following acts and omissions constitute Anti-Doping Rule Violations by the Covered Person(s) in question: (a) Possession of a Banned Substance or a Banned Method, unless there is a compelling justification for such Possession . . . ."

5.13 Under ADMC Program Rule 1020:

"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.”

5.14 Put another way, under the Rules, possession is established, in the absence of a compelling justification for the possession, in three circumstances:

- (a) By the act of purchasing (including by any electronic or other means) a Banned Substance or Banned Method, regardless of whether the Banned Substance or Banned Method purchased is ever delivered to the Covered Person;
- (b) Where a Covered Person has exclusive control or intends to exercise exclusive control of, or over, either (i) the substance or (ii) the premises where the substance is located; or
- (c) If the Covered Person does not have exclusive control over the substance or the premises where the substance is located, constructive possession will be established if the Covered Person knew of the presence of the substance and intended to exercise control over it.

5.15 The Rule’s definition of possession in the ADMC Program is materially identical to the definition of possession in the WADC. (*See* WADC Article 2.6.)

#### Presence ADRV Charges

5.16 It is alleged that Trainer Childers violated ADMC Program Rule 3212 regarding the presence of a Prohibited Substance in two Covered Horses.

5.17 ADMC Program Rule 3212 states:

“(a) It is the personal and non-delegable duty of the Responsible Person to ensure that no Banned Substance is present in the body of his or her Covered Horse(s). The Responsible Person is therefore strictly liable for any Banned Substance or its Metabolites or Markers found to be present in a Sample collected from his or her Covered Horse(s). Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3212 Anti-Doping Rule Violation.

(b) Sufficient proof of a Rule 3212 Anti-Doping Rule Violation is established by any of the following:

- (1) the presence of a Banned Substance or its Metabolites or Markers in the Covered Horse’s A Sample where the Responsible Person waives

analysis of the B Sample and the B Sample is not analyzed;

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

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

(c) The general rule is that the presence of any amount of a Banned Substance or its Metabolites or Markers in a Sample collected from a Covered Horse constitutes an Anti-Doping Rule Violation by the Responsible Person of that Covered Horse.

(d) As an exception to the general rule of Rule 3212(c), the Prohibited List, Standards, or Technical Documents may establish special criteria for the reporting or the evaluation of certain Banned Substances, including a Minimum Reporting Level, Screening Limit, Threshold, or Decision Limit.”

## **VI. THE PARTIES' CONTENTIONS AND CLAIMS FOR RELIEF**

6.1 In their pre-hearing and post-hearing briefs and during the hearing, the Parties presented various arguments regarding their respective positions in this case, including testimony concerning the likely source of the Testosterone in the Samples of Tigger Attack and Childersattack. The below summarizes the Parties' basic positions.

### **HIWU's Contentions**

6.2 In summary, HIWU asserts that Trainer Childers committed three ADRVs: one ADRV for possession of the Banned Substance Kava Kava, as contained in a tub labelled "Easywillow" found in Trainer Childers' tack room; one ADRV for the presence of Testosterone in the Covered Horse Tigger Attack; and one ADRV for the presence of Testosterone in the Covered Horse Childersattack.

6.3 Trainer Childers is strictly liable for the Kava Kava contained in the Easywillow tub found in his tack room. Trainer Childers had exclusive control over the tack room, and it is irrelevant whether he was aware of the existence of the Kava Kava in his tack room for purposes of the definition of possession. Trainer Childers has not proffered any reliable evidence to establish a compelling justification for his possession of the Banned Substance. (HIWU Possession Br. at 9-10.) Trainer Childers bears significant fault as "HIWU

presently has no reason to believe that Trainer Childers took any precautions to ensure that premises under his control were free of Banned Substances.” (*Id.* at 15.)

6.4 Trainer Childers is strictly liable for the Testosterone above the 100 pg/mL in blood threshold for geldings in Tigger Attack’s and Childersattack’s Samples. Additionally, Trainer Childers is unable to establish by a balance of probabilities the pre-condition of identifying how the Testosterone entered either horse’s system, and thus cannot pursue No Fault or No Significant Fault defenses in regard to the violations. With respect to Tigger Attack, while Dr. McCrosky admitted to administering Testosterone to that Covered Horse, “there is no evidence of the precise timing or dosage of his administration to Tigger Attack,” nor any “pharmokinetic evidence that the concentration of Testosterone detected in the Samples . . . is consistent with the specific timing and dosage asserted.” (HIWU Presence Br. at 15-16.) And with respect to Childersattack, HIWU contends that the horse “was fully castrated at the time of the October 16, 2024 sample collection contrary to the assertions of Trainer Childers or his veterinarian, Dr. McCrosky.” (*Id.* at 16.)

6.5 As a result of the alleged Possession ADRV and Presence ADRVs, HIWU requests the following consequences be imposed upon Trainer Childers:

- (i) A period of two years Ineligibility for each ADRV served consecutively, for a total period of Ineligibility of six (6) years for Trainer Childers as Covered Person;
- (ii) A fine of \$25,000 for each ADRV, for a total fine of \$75,000;
- (iii) Disqualification of the results Childersattack obtained on October 17, 2024 in Race 2 at Fairmount Park and forfeiture of all purse and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
- (iv) Disqualification of the results Tigger Attack obtained on October 29, 2024 in Race 2 at Fairmount Park and forfeiture of all purse and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
- (v) A period of Ineligibility of fourteen months for Childersattack beginning October 16, 2024, which has now been served, such that reinstatement of Childersattack is subject to a Negative Finding from a Re-Entry Test administered by HIWU;
- (vi) A period of Ineligibility of fourteen months for Tigger Attack beginning October 29, 2024, which has now been served, such that reinstatement of Tigger Attack is subject to a Negative Finding from a Re-Entry Test administered by HIWU;
- (vii) Payment of some or all of the costs of adjudication; and
- (viii) Public disclosure pursuant to ADMC Program Rules.

## **Trainer Childers' Contentions**

6.6 Trainer Childers contends that he never purchased or used the Easywillow product and did not know it was in his tack room. He further contends that since he inherited the tack room from his grandfather, the Easywillow may have been in the tack room from that prior time, and he just never threw it away.

6.7 Trainer Childers contends that he did not administer Testosterone to Tigger Attack or Childersattack and bears No Fault or Negligence for the Presence ADRVs.

6.8 With respect to Tigger Attack, Trainer Childers contends that "Dr. McCrosky personally and unilaterally administered Testosterone to the Covered Horse Tigger Attack without the knowledge of Trainer Childers." (Childers Post-Hearing Br. at 2.)

6.9 And with respect to Childersattack, while initially contending that Childersattack was a ridgling, in his post-hearing brief Trainer Childers contends that "[t]he McCrosky Decision confirms that Dr. McCrosky fabricated the ridgling explanation and that Childersattack was in fact a gelding at the time of the October 16, 2024, sample. . . . The only remaining scientific explanation for the Testosterone present in Childersattack's system is exogenous administration, and the only person with access to administer veterinary substances to Childersattack was Dr. McCrosky. Source is therefore established by logical and evidentiary inference: the substance was placed in the horse by the same veterinarian who was simultaneously found to have used Testosterone on another horse in the same owner's stable, fabricated a fraudulent explanation to cover it up, and operated a covert trafficking operation at the same racetrack." (*Id.* at 4.)

6.10 Trainer Childers seeks the following relief: (a) find that no ADRV was committed; (b) alternatively, find that Respondent acted with No Fault or Negligence and eliminate all Consequences; (c) deny HIWU's request for Ineligibility and fines. (Childers Pre-Hearing Br. at 4-5.)

## **VII. ANALYSIS**

### **A. Possession ADRV**

#### HIWU Has Established the Possession ADRV

7.1 In this matter, Trainer Childers is charged with an ADRV for possession of Kava, a category S0 Banned Substance.

7.2 It is undisputed that the tub of Easywillow seized from Trainer Childers' tack room contained the Banned Substance Kava.

7.3 Trainer Childers contends that he "was not present when the supplement was found, did not place it in the tack room, had no knowledge of its presence, and exercised no singular exclusive control over a space that multiple individuals accessed." (Childers Post-Hearing Br. at 9.)

7.4 But whether Trainer Childers was present when the product was found, personally placed it in the tack room, or was otherwise aware it was in his tack room “is of no legal moment under the definition of Possession.” *HIWU v. Poole*, JAMS Case No. 15010000576, ¶ 7.9. Under the definition of possession, “constructive possession” is sufficient and is established “if the Covered Person has exclusive control or intends to exercise exclusive control over . . . the premises in which a Prohibited Substance” is found.

7.5 Despite Trainer Childers’ contention that he “exercised no singular exclusive control over a space that multiple individuals accessed,” the record evidences that Trainer Childers maintained exclusive control over the tack room where the Easywillow was found. Trainer Childers testified that he took over the barn space, including the tack room, from his grandfather in 2020. Trainer Childers further testified that the stalls and tack room were his areas of the barn and he was responsible for those areas. He also testified that he maintained a lock on his tack room door, though he did not always keep it locked. No one used the tack room where the Easywillow was found other than those, like his brother Hunter Childers, who worked under Trainer Childers’ direction. Accordingly, the Arbitrator finds that Trainer Childers had exclusive control over the premises where the Easywillow containing the Kava was found.

7.6 Trainer Childers has failed to assert any “compelling justification” for his possession of the Banned Substance.

7.7 Accordingly, the Arbitrator finds that HIWU has established to the comfortable satisfaction of the Arbitrator that Trainer Childers was in possession of the Banned Substance Kava in violation of Rule 3214(a).

#### Term of Ineligibility

7.8 Having determined that Trainer Childers committed the act of possession under the ADMC Program, the Arbitrator next considers whether the standard two (2) year period of ineligibility may be reduced by considering whether there was No Fault or Negligence or No Significant Fault or Negligence. For a charge of possession, unlike for charges of presence, there is no predicate to reaching the No Fault or Negligence or No Significant Fault or Negligence standard (such as having to show source). Accordingly, once the elements of possession are found, the analysis proceeds directly to the fault analysis.

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

“[T]he 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. . . .”

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

“[T]he 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.”

7.11 Trainer Childers admitted that upon inheriting the tack room from his grandfather, he did not conduct a thorough search to inventory what was in the tack room or look at the ingredient lists of all the products in the tack room. He also admitted that he did not attend any of HIWU’s live educational seminars, and thus did not hear the advice that Covered Persons should conduct a spring cleaning of their barns before the Act came into effect. Trainer Childers acknowledged that he “didn’t go through all the stuff that [he] should have,” and admitted he “should have been more diligent.” Trainer Childers’ conduct reflects sufficient negligence to preclude the Arbitrator from finding No Fault or Negligence.

7.12 Under a finding of No Significant Fault or Negligence, Trainer Childers could be Ineligible for anywhere between three (3) months and twenty-four (24) months, depending on the level of fault. *See* Rule 3225(a). This is a broad range of possible Ineligibility. Other cases considering the issues across a similarly broad range have found it useful, analytically, to break the range into three basic groupings: insignificant or slight fault; moderate fault; significant fault. *See* CAS 2013/A/3327, *Cilic v. International Tennis Federation*.

7.13 The CAS Panel analysis in *Cilic* considered 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 situation and determines into which category a case falls; the subjective element describes what could have been expected from the particular person, in light of his personal capacities, and typically moves the individual up or down within a specific category.

7.14 Applying the *Cilic* ranges as a guide, the Arbitrator breaks down the twenty-one months of possible periods of Ineligibility into roughly three seven-month ranges of objective fault: slight or insignificant: three to ten months; moderate: ten to seventeen months; significant: seventeen to twenty-four months.

7.15 The Arbitrator determines that Trainer Childers’ conduct demonstrates that he objectively falls into the moderate or middle range of objective fault. Trainer Childers failed to inventory the items in his tack room and their ingredients to ensure that no products that had been left by his grandfather contained any banned substances. He also failed to attend information sessions that would have advised him to conduct a spring cleaning before the Act came into effect. On the other hand, while Trainer Childers did not conduct a comprehensive search of all products in his tack room, he did undertake to discard items he understood to be prohibited under the ADMC Program, including thyroid

powder.

7.16 Subjective factors weigh in Trainer Childers' favor. Trainer Childers is a young, inexperienced trainer, and there is no evidence he ever purchased or used the Easywillow product containing the Kava. Trainer Childers credibly testified that he did not even know the product was in his tack room. During the November 12, 2024 search, Hunter Childers advised Investigator Meyer that the Easywillow had never been used (while admitting that another product that also was seized had been used). Consistent with Hunter Childers' assertion, Investigator Meyer testified that the Easywillow was found at the back of a shelf in Trainer Childers' tack room behind other items and, according to his investigative report, was "covered in dirt/dust, and the bag inside the tub appeared to be full and in its original state."

7.17 After consideration of the above factors, the Arbitrator determines that Trainer Childers' objective level of fault falls in the moderate range, and that he should receive a reduction, due to the subjective factors, of five (5) months from what normally would have been seventeen (17) months.

7.18 The Arbitrator thus imposes a period of Ineligibility of twelve (12) months.

## **B. Presence ADRVs**

### HIWU Has Proven the Presence ADRV with Respect to Tigger Attack

7.19 As noted at 5.17 above, Rule 3212(a) describes the strict liability duty of Trainer Childers to ensure no Banned Substances are present in the body of his Covered Horse.

7.20 As further noted at 5.17 above, a Rule 3212 violation is established when "the Covered Horse's B Sample is analyzed and the analysis of the B Sample confirms the presence of the Banned Substance or its Metabolites or Markers found in the A Sample."

7.21 Tigger Attack's A Sample returned an AF for Testosterone at a concentration of 374 pg/mL, and the B Sample confirmed the presence of Testosterone at a concentration of 363.5 pg/mL, both above the threshold of 100 pg/mL in blood for geldings.

7.22 Under Rule 3122(c), "[l]aboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the Laboratory Standards. A Covered Person who is alleged to have committed a violation may rebut this presumption by establishing that a departure from the Laboratory Standards occurred that could reasonably have caused the Adverse Analytical Finding or other factual basis for any other violation asserted." Here, Trainer Childers has not presented any evidence that a departure from the Laboratory Standards occurred that could reasonably have caused the AAF.

7.23 Accordingly, HIWU has met its burden of establishing, to the Arbitrator's comfortable satisfaction, that Trainer Childers has committed a Rule 3212 violation.

### Term of Ineligibility

7.24 Pursuant to ADMC Program Rule 3223, the presumptive period of ineligibility for a first ADRV under ADMC Program Rule 3212 (Presence) is two (2) years of Ineligibility.

### ***Trainer Childers Has Met His Burden to Prove the Source of the Testosterone in Tigger Attack's Sample***

7.25 Because HIWU has met its burden of establishing an ADRV under Rule 3212, the Arbitrator next considers whether Trainer Childers is entitled to a reduction in sanctions under Rule 3224 or 3225.

7.26 The Rules expressly place the burden on the Covered Person to establish, by a balance of probabilities, how the Prohibited Substance entered the horse's system. Trainer Childers contends that he has met his burden of establishing that Dr. McCrosky administered Testosterone to Tigger Attack. More specifically, Trainer Childers asserts that "the McCrosky Decision confirms, through Dr. McCrosky's own sworn testimony credited by Arbitrator Fraser, that Dr. McCrosky administered one cc of Testosterone to Tigger Attack after being told by a groom that the horse was not eating well. The administration was admitted, unilateral, and conducted by the attending veterinarian without Trainer Childers' knowledge or involvement." (Childers Post-Hearing Br. at 4.)

7.27 HIWU argues that Trainer Childers has failed to meet his burden of establishing source because "Trainer Childers failed to submit scientific evidence that administration of 1 cc of Testosterone to a Thoroughbred can result in blood concentration levels between 363.5 and 374 pg/mL seven to ten days after administration. As a result, mere speculation links Dr. McCrosky's admitted administration to the Presence ADRV. The Testosterone found in Tigger Attack's blood Sample could have been due to some other administration or exposure of Testosterone to Tigger Attack separate and apart from Dr. McCrosky's admitted administration." (HIWU Post-Hearing Br. at 4.)

7.28 I find that Trainer Childers has met his burden of proving, by a balance of probabilities, the source of the Testosterone in Tigger Attack's Sample. Contrary to HIWU's argument, there is no requirement that Trainer Childers "submit scientific evidence that administration of 1 cc of Testosterone to a Thoroughbred can result in blood concentration levels between 363.5 and 374 pg/mL seven to ten days after administration."

7.29 The decision in *HIWU v. VanMeter*, JAMS Case 1501000594, does not hold otherwise. While in that case, HIWU's expert provided testimony confirming the volume of substance that would have to be ingested to produce the concentration level found in the horse's sample, and the Arbitrator relied on that evidence in determining that source had been established by the trainer, such evidence is not a mandatory prerequisite to proving source. Instead, the ADMC Program simply requires that the Covered Person establish source by a balance of probabilities.

7.30 In the *McCrosky* case, HIWU asserted that during an interview with HIWU investigators, "Dr. McCrosky mentioned a prior Atypical Finding ("AF") for Testosterone

in Tigger Attack,” and “[w]hen discussing this AF during the Interview, Dr. McCrosky admitted to administering one cc of Testosterone to Tigger Attack after being advised by a groom that the horse was not eating well. Dr. McCrosky added that he tries to make sure that he administers Testosterone no shorter than seven to ten days out from a race, and that he does not regularly use Testosterone. He described his use of Testosterone as every once in a while and only if a horse is not eating well.” (*McCrosky* Final Decision ¶¶ 2.6-2.7, 2.25.) The Arbitrator in that matter held that Dr. McCrosky had committed a Use ADRV by administering Testosterone to Tigger Attack.

7.31 There is no evidence that Trainer Childers ever administered Testosterone to Tigger Attack. To the contrary, Trainer Childers testified that not only did he never administer or see anyone administering Testosterone to Tigger Attack, but also that he never administered any medications to any of the horses owned by Dr. McCrosky or his wife. In addition, no testosterone was found during the Investigators’ search of Trainer Childers’ barn on November 12, 2024.

7.32 Considering the totality of the evidence, I find that Trainer Childers has met his burden of proving, by a balance of probabilities, the source of the Testosterone in Tigger Attack’s Sample.

***Applicability of Rule 3224 or Rule 3225***

7.33 The Arbitrator next considers whether Trainer Childers has established that he is entitled to an elimination of the sanction under Rule 3224 because he bears “No Fault or Negligence” or a reduction of the sanction under Rule 3225 because he bears “No Significant Fault or Negligence.”

7.34 The “case law places the burden of proof very high to establish no fault or negligence,” requiring the charged individual to “prove that he did not know or suspect or could not reasonably have known or suspected, even with the utmost caution that he had” committed an ADRV. *CAS 2007/A/1446, WADA v. Qatar Football Association*, ¶ 6.15. It is well established that No Fault applies only in the most exceptional circumstances, as acknowledged in CAS jurisprudence and in the commentary to the WADC itself: The No Fault provision “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.”

7.35 Under Rule 3040(b)(5), Trainer Childers had an affirmative duty to adequately supervise all Covered Persons involved in the care of his Covered Horses, including veterinarians. And Rule 3224(b) makes clear that “Rule 3224 only applies in exceptional circumstances,” and “[i]n particular, it will not apply where the Banned Substance found to be present in a Sample . . . was administered to the Covered Horse by veterinary or other support personnel without the knowledge of the Responsible Person.”

7.36 The Arbitrator accepts Trainer Childers’ testimony that he did not know that Dr. McCrosky administered Testosterone to Tigger Attack until after he had been served with the AF notice. Nonetheless, Trainer Childers was responsible to adequately supervise Dr. McCrosky and has failed to prove, on a balance of probabilities, that he bears No Fault or

Negligence for Dr. McCrosky administering Testosterone to Tigger Attack without his knowledge.

7.37 The Arbitrator does find, however, that Trainer Childers has proven, by a balance of probabilities, that his 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 ADRV.

7.38 To benefit from a reduction in sanction for No Significant Fault or Negligence, the Respondent must have “taken at least all clear and obvious precautions which any human being would have taken in the same set of circumstances.” CAS 2010/A/2245, *Plotniy v. ITF*, ¶ 14. Here, contrary to HIWU’s assertion that Trainer Childers “took no precautions whatsoever” (HIWU Post-Hearing Br. ¶ 15), Trainer Childers did make inquiries as to the medications Dr. McCrosky was administering to his Covered Horses, and Dr. McCrosky told Trainer Childers he was providing the horses “vitamins,” “buildup,” or other vaguely described permissible substances. Further, at the hearing in response to a question from HIWU whether Trainer Childers previously told Investigator Meyer that Dr. McCrosky “was giving [his] horses, you know injections and medications, but [he] didn’t really know the specifics about it,” Trainer Childers credibly testified that the difference in giving Adequan or Bute to testosterone “is a big difference,” and he had “assumed it was one way” when “it was not.” There is no evidence to suggest Dr. McCrosky or anyone else ever informed Trainer Childers, or that Trainer Childers should have otherwise known, that Dr. McCrosky was administering prohibited substances to Tigger Attack.

7.39 The cases relied upon by HIWU are readily distinguishable. HIWU cites to CAS 2007/A/1446, *WADA v. Qatar Football Association*, for the proposition that “athletes are responsible for the choice of their medical personnel, and the possible failure of a doctor to verify the compatibility of the prescribed substance does not exclude the personal responsibility of the player in connection with the prohibited substances.” (HIWU Presence Br. ¶ 63(a).) HIWU also cites to CAS 2012/A/2959, *WADA v. Nilforushan and FEI*, where a CAS panel found that an equestrian athlete failed to establish No Significant Fault when the athlete “accepted medication provided to him by Dr. Tachuk in unlabeled bottles, without knowing the ingredients and without asking any questions about them or double-checking in any other manner.” (HIWU Presence Br. ¶ 63(b).) Neither case involved intentional wrongdoing by the medical personnel. Here, Dr. McCrosky intentionally misrepresented and concealed the substances he was administering to Covered Horses, telling Trainer Childers he was administering permissible substances when in fact he was administering prohibited substances.

7.40 The Arbitrator determines that Trainer Childers’ conduct demonstrates that he objectively falls into the moderate range of objective fault. It is understandable that Trainer Childers did not perceive a significant degree of risk in allowing Dr. McCrosky to administer what he was told were permissible substances to the Covered Horses, as Dr. McCrosky was an extremely experienced veterinarian and one of only two veterinarians at Fairmount Park. Furthermore, Dr. McCrosky had provided veterinary services to Trainer Childers’ grandfather for many years without issue. On the other hand, Trainer Childers acknowledged that he had a duty to adequately supervise Dr. McCrosky, yet he “deferred”

to and “trusted” Dr. McCrosky regarding the administration of substances to Covered Horses given Dr. McCrosky’s experience and expertise in the veterinary field. Considering the totality of the circumstances, I find Trainer Childers falls into the moderate or middle range of objective fault.

7.41 Subjective factors warrant a further reduction in sanction. As discussed above, Trainer Childers is a young, inexperienced trainer. He candidly acknowledged that he was “naive” in deferring to Dr. McCrosky. While Trainer Childers’ inquiries of Dr. McCrosky could have been more thorough, the evidence reflects that Dr. McCrosky intentionally misled Trainer Childers regarding the substances he provided to the Covered Horses. Indeed, Dr. McCrosky testified that Trainer Childers was not involved and did not know anything about the administration of Testosterone to Tigger Attack. Furthermore, because Tigger Attack was owned by Dr. McCrosky’s wife, Dr. McCrosky had unfettered access to the horse. Even with the exercise of utmost caution, I find it unlikely Trainer Childers could have uncovered and prevented Dr. McCrosky’s misconduct.

7.42 After consideration of the above factors, the Arbitrator determines that Trainer Childers’ objective level of fault falls in the moderate range, and that he should receive a reduction, due to the subjective factors, of seven (7) months from what normally would have been seventeen (17) months.

7.43 The Arbitrator thus concludes that Trainer Childers should suffer a period of Ineligibility at the lowest end of the moderate range, ten (10) months.

#### HIWU Has Proven the Presence ADRV with Respect to Childersattack

7.44 Childersattack’s A Sample returned an Atypical Finding for Testosterone at a concentration of 579 pg/mL, and the B Sample confirmed the presence of Testosterone at a concentration of 496 pg/mL, both above the threshold of 100 pg/mL for geldings.

7.45 In his pre-hearing brief and at the hearing, Trainer Childers argued that Childersattack was a ridgling, and “[t]he evidence demonstrates that the detected levels of Testosterone in Childersattack were the result of endogenous production from a retained testicle, rather than exogenous administration.” (Childers Pre-Hearing Br. at 2.) Trainer Childers further argued that “HIWU has not established that the detected levels resulted from exogenous administration. The discovery and surgical removal of the retained testicle provide a clear, natural explanation for the presence of the substance.” (*Id.* at 4.) In his post-hearing brief, however, Trainer Childers argues that “[t]he McCrosky Decision confirms that Dr. McCrosky fabricated the ridgling explanation and that Childersattack was in fact a gelding at the time of the October 16, 2024, sample.” (Childers Post-Hearing Br. at 4.)

7.46 Under Rule 3212, “[s]ufficient proof of a Rule 3212” ADRV “is established by . . . the Covered Horse’s B Sample is analyzed and the analysis of the B Sample confirms the presence of the Banned Substance or its Metabolites or Markers found in the A Sample.”

7.47 Here, both the A and B Sample reported Testosterone concentration above the

Threshold for geldings.

7.48 I find Trainer Childers' argument that Childersattack was a ridgling, not a gelding, at the time of Sample Collection unsupported by the evidence.

7.49 Dr. Mary Scollay, HIWU's former Chief of Science, provided persuasive testimony that the lack of Nandrolone in Childersattack's blood Sample makes it highly unlikely that Childersattack had functional testicular material at the time of sample collection on October 16, 2024. As Dr. Scollay also explained, it is highly unlikely that a ridgling with an undescended testicle would produce a sample on September 24, 2024, that was negative for Testosterone, meaning with a concentration less than 100 pg/mL, and then test positive three weeks later on October 16, 2024, at a concentration of 579 pg/mL, without having been exogenously administered Testosterone in the time period between the two sample collections. I find that, as Trainer Childers now concedes in his post-hearing brief, Childersattack was not a ridgling with an undescended testicle in his body at the time of Sample collection, and the excess Testosterone in his system was not endogenous.

7.50 Trainer Childers has not presented any evidence that a departure from the Laboratory Standards occurred that could reasonably have caused the AAF.

7.51 Accordingly, the Agency has met its burden of establishing, to the Arbitrator's comfortable satisfaction, that Trainer Childers has committed a Rule 3212 violation with respect to Childersattack.

#### Term of Ineligibility

7.52 Pursuant to ADMC Program Rule 3223, the presumptive period of ineligibility for a first ADRV under ADMC Program Rule 3212 (Presence) is two (2) years of Ineligibility.

#### ***Trainer Childers Has Failed to Meet His Burden to Prove the Source of the Testosterone in Childersattack's Sample***

7.53 As discussed above, the Rules expressly place the burden on the Covered Person to establish, by a balance of probabilities, how the Prohibited Substance entered the horse's system.

7.54 In light of the clear evidence, discussed above, undermining his theory that Childersattack was a ridgling at the time of Sample Collection, Trainer Childers changes course in his post-hearing brief and asserts that "[t]he McCrosky Decision confirms that Dr. McCrosky fabricated the ridgling explanation and that Childersattack was in fact a gelding at the time of the October 16, 2024, sample." (Childers Post-Hearing Br. at 4.) Trainer Childers contends that "[t]he only remaining scientific explanation for the Testosterone present in Childersattack's system is exogenous administration, and the only person with access to administer veterinary substances to Childersattack was Dr. McCrosky." *Id.* "Source is therefore established by logical and evidentiary inference: the substance was placed in the horse by the same veterinarian who was simultaneously found to have used Testosterone on another horse in the same owner's stable, fabricated a

fraudulent explanation to cover it up, and operated a covert trafficking operation at the same racetrack.” (*Id.*)

7.55 Trainer Childers, however, has failed to present any evidence to support his speculative assertion that Dr. McCrosky administered Testosterone to Childersattack and was the source of the AAF. Unlike with respect to Tigger Attack, Dr. McCrosky did not admit to administering Testosterone to Childersattack. While Dr. McCrosky’s actions with respect to Tigger Attack raises suspicions that he may have administered Prohibited Substances to other Covered Horses as well, this “logical and evidentiary inference” is nothing more than mere speculation. Trainer Childers has “a stringent requirement to offer persuasive evidence” of the source of the AAF. CAS 2017/A/4692, *WADA v. CPA & Karim Gharbi*, ¶ 53. Here, Trainer Childers has failed to proffer any such persuasive evidence to carry his burden of proving, by a balance of probabilities, source with respect to Childersattack.

7.56 I thus conclude that Trainer Childers cannot benefit from mitigated consequences since he has failed to prove, by a balance of probabilities, how the Testosterone entered Childersattack’s system. Therefore, his sanction stands at two (2) years of Ineligibility.

### **C. The Periods of Ineligibility Will Be Served Consecutively**

7.57 HIWU seeks to have sanctions imposed on Trainer Childers separately for each of the three ADRVs committed and for those sanctions to run consecutively. (HIWU Presence Br. ¶ 65.)

7.58 Under Rule 3223(c)(2), “[w]here 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.”

7.59 Under Rule 3223(c)(2), the periods of Ineligibility will be served consecutively, with a total period of Ineligibility of three (3) years and ten (10) months.

### **D. Fine, Payment Toward Arbitration Costs**

7.60 Under the ADMC Program, the punishment for a first offense ADRV includes, in addition to a period of Ineligibility, a “Fine of up to \$25,000 . . . and Payment of some or all of the adjudication costs and the Agency’s legal costs.” Rule 3223(b).

7.61 HIWU requests that the Arbitrator impose a fine of \$25,000 for each ADRV, for a total fine of \$75,000.

7.62 The Arbitrator determines based on the specific facts and circumstances of this case, the substantial consequences imposed, and the purpose of the regulatory scheme as applied here, the fine should be set at a total of \$30,000 for all three ADRVs to be paid by the end of the period of Ineligibility.

7.63 HIWU has not requested any payment towards its legal fees, and the Arbitrator declines to require any such payment.

7.64 HIWU does, however, request an order that Trainer Childers pay some or all of the adjudication costs. The Arbitrator declines, in the Arbitrator's discretion and consistent with the intent and spirit of the ADMC Program, to engage in any cost-shifting. The Arbitrator concludes that the consequences so ordered are sufficient, adequate and appropriate given the circumstances and nature of the ADRVs in this case.

7.65 All other arguments by the Parties have been considered and rejected.

## **VIII. AWARD**

8.1 Based on the foregoing facts, legal analysis, and conclusions of fact, the Arbitrator renders the following decision:

- a. Trainer Childers is found to have committed one first-offense Rule 3214(a) Possession ADRV and two first-offense Rule 3212 Presence ADRVs, as described above. As a result:
  - i. Trainer Childers shall be suspended for a period of Ineligibility of three (3) years and ten (10) months, commencing on the date consistent with the language in the Notice of Sanctions;
  - ii. Trainer Childers shall be fined \$30,000 to be paid to HIWU by the end of the period of Ineligibility described above;
  - iii. The results of Childersattack obtained on October 17, 2024 in Race 2 at Fairmount Park are disqualified, including forfeiture of all purse and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
  - iv. The results of Tigger Attack obtained on October 29, 2024 in Race 2 at Fairmount Park are disqualified, including forfeiture of all purse and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer;
  - v. A period of Ineligibility of fourteen (14) months is imposed for Childersattack beginning October 16, 2024, which has now been served, such that reinstatement of Childersattack is subject to a Negative Finding from a Re-Entry Test administered by HIWU;
  - vi. A period of Ineligibility of fourteen (14) months is imposed for Tigger Attack beginning October 29, 2024, which has now been served, such that reinstatement of Tigger Attack is subject to a Negative Finding from a Re-Entry Test administered by HIWU; and
  - vii. There will be public disclosure of these findings in accordance with the ADMC Program Rules.
- 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.

Dated: April 28, 2026

Signed by:  
*Bernard Taylor*  
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Bernard Taylor Sr., Arbitrator