

BEFORE THE INTERNAL ADJUDICATION PANEL

HIWU

Case Number: ECM2023-225
IAP Member: Richard Abbott

v.

Steve Klesaris P000001913

AMENDED FINAL RULING OF INTERNAL ADJUDICATION PANEL

Section One – Parties

Date of Hearing: July 30, 2024
Date of Decision: August 3, 2024
Date of Amendment: August 5, 2024
HIWU Counsel: Geneva Gnam
Covered Person: Steve Klesaris P000001913
Counsel for Covered Person: Andrew Mollica

Section Two – Charge

Covered Person Steve Klesaris (P000001913) is charged with violation of the following Series 3000 Equine Anti-Doping and Medication Control (AMDC) Program Rule:

On Nov 9, 2023, Mr. Klesaris was the Trainer and Responsible Person for the Covered Horse She's Awesome which raced in the second race at Aqueduct Racetrack on that date. Post-Race Samples taken from the Covered Horses were analyzed and Gabapentin was detected. Gabapentin is a category S7, Class B Controlled Medication on the Prohibited List and Technical Document.

If true, these findings would be violations of ADMC Program Rule 3312(a).

Section Three – Burdens of Proof and Evidence

- A. Pursuant to AMDC Program Rule 3121 (Protocol), HIWU has established the following evidence, as set forth below, to the comfortable satisfaction of the hearing panel:

HIWU has established through written submissions and by stipulations of counsel that on November 9, 2023, Trainer Klesaris was the Trainer of record and Responsible Person for the Covered Horse She's Awesome, which ran in Race 2 at Aqueduct Racetrack. She's Awesome was selected for Post-Race Sample collection. HIWU Sample Collection Personnel collected a blood Sample from She's Awesome, designated as Sample #B100251727 ("SA Sample"). She's Awesome's A Sample was submitted to the Kenneth L. Maddy Equine Analytical Chemistry Laboratory ("UC Davis") in Davis, California. UC Davis analyzed the A Sample in accordance with the Equine Standards for Laboratories and Accreditation and reported an Adverse Analytical Finding (AAF) because it detected Gabapentin in that A Sample. Gabapentin is a

category S7, Class B Controlled Medication on the Prohibited List and Technical Document. The Covered Person requested analysis of She's Awesome's B Sample. The Ohio Analytical Toxicology Laboratory (the Ohio Laboratory) in Reynoldsburg, Ohio confirmed that She's Awesome's B Sample contained Gabapentin.

B. Pursuant to AMDC Program Rule 3121 (protocol), the Covered Person has established the following evidence, set forth in detail below, by a balance of the evidence:

At the hearing held by Zoom on July 30, 2024 Covered Person Klesaris testified that he shipped She's Awesome from Delaware Park to Aqueduct Racetrack at 2:00 AM on the morning of November 9, 2023 with members of his staff. He did not arrive at Aqueduct until one hour prior to the second race. A member of his staff, who had traveled with She's Awesome, informed him that, upon arrival, She's Awesome was assigned a stall in the auxiliary barn used for overflow from the normal receiving barns. He further testified that, in his opinion and by general consensus, that barn is dirty and unkempt and that people often use the stalls rather than the inadequate bathrooms provided nearby. He then speculated that She's Awesome had been exposed to Gabapentin from urine in her stall. The only other testimony presented as a defense to the charge was an expert report authored by Dr. Steven Barker which spoke to the lack of pharmacological effect that Gabapentin, at the concentration found in both Samples, would have had on the Covered Horse. Rule 3312(2) holds that no Controlled Medication Substance may be present in the Post Race Sample.

Section Four – Violations Determined

Based on the applicable AMDC Program Rules (Protocol) listed above in Section Two, and based upon the established evidence as set forth in Section Three above, the Hearing Panel has determined that the Covered Person has violated the following AMDC Program Rule (Protocol): Rule 3312(a) It is the personal and non-delegable duty of the Responsible Person to insure that no Controlled Medication Substance is present in the Post-Race Sample of his or her Covered Horse(s), and that no Controlled Medication Substance specifically identified on the Prohibited List as prohibited during Timed and Reported Workouts is present in the Post-Work Sample of his or her Covered Horses. The Responsible Person is therefore strictly liable for any Controlled Medication Substance or its Metabolites or Markers found to be present in the Post-Race Sample collected from his or her Covered Horse(s), and for any specifically prohibited Controlled Medication Substance or its Metabolites or Markers found to be present in the Post-Work 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 Party in order to establish that the Responsible Party has committed a Rule 3312 Controlled Medication Rule Violation.

Section Five – Finding of No Fault/Negligence or No Significant Fault/Negligence

Pursuant to ADMC Program Rules 3324 and 3325 (Protocol), a Covered Person is entitled to elimination or reduction of any period of Ineligibility if the hearing panel determines that the Covered Person has established that he or she bears No Fault or Negligence, or No Significant Fault or Negligence for the Violation(s). Based on the foregoing evidence, the IAP Member finds

that the Covered Person has not established that he or she bears No Fault or Negligence; nor has the Covered Person established that he or she bears No Significant Fault or Negligence for the Violation(s).

Section Six – Elimination, reduction, or suspension of period of Ineligibility and/or other Consequences for reasons unrelated to degree of Fault

Pursuant to ADMC Program Rule 3326(b) – (d) (Protocol), the Covered Person is entitled to elimination, reduction, or suspension of a period of Ineligibility and/or other Consequences if he or she has satisfied any of the criteria set forth in ADMC Program Rule 3326(b) – (d) (Protocol). The IAP panel member finds that no such criteria pertain in this matter.

Section Seven – Aggravating Circumstances

HIWU has not established any aggravating circumstances to the comfortable satisfaction of the hearing panel.

Section Eight - Consequences

The following Consequences are imposed upon the Covered Person for each violation that has been established in this case:

In the Matter of She’s Awesome

1. Disqualification of the results of She’s Awesome obtained in Race 2 at Aqueduct Racetrack on November 9, 2023 and forfeiture of all purses and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer (ADMC Program Rule 3321);
2. A period of ineligibility of 15 days;
3. A fine of \$1,000 USD (ADMC Program Rule 3323);
4. Assignment of 2 Penalty Points (ADMC Program Rule 3328); and
5. Public disclosure in accordance with Rule 3620 (ADMC Program Rule 3331)

Section Nine – Penalty Points

The total penalty points issued against Covered Person Steve Klesaris as a result of this decision are **Two**. The Covered Person has no prior penalty points, bringing his total penalty points to **Two**.

Subject to AMDC Program Rule 3364 (Protocol), this decision is final and binding pursuant to AMDC Program Rule 3363 (Protocol).

Richard Abbott

Richard D. Abbott
IAP Panel Member