

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
MATTER NO. _____**

ADMINISTRATIVE LAW JUDGE: _____

IN THE MATTER OF:
JONATHAN WONG

APPELLANT

APPLICATION FOR STAY OF FINAL CIVIL SANCTION

Pursuant to 15 U.S.C. § 3051 *et seq.* and 16 CFR 1.148, Appellant Jonathan Wong hereby applies for a stay of the final civil sanction imposed by Arbitrator Nancy Holtz as part of her February 9, 2024, decision in JAMS Case No. 1501000584, as corrected, finding that Appellant Wong committed an Anti-Doping Medication Control (“ADMC”) Program violation (“Decision”). In a letter dated February 13, 2024, the Horseracing Integrity and Safety Authority (“HISA”) notified Appellant that the final civil sanction imposed by the Arbitrator “ha[s] been imposed.” A stay of the final civil sanction, in its entirety, is warranted by the factors in 16 CFR 1.148(d).

1. Likelihood of Appellant’s success on *de novo* review

Appellant has a high likelihood of success on *de novo* review. First, the Arbitrator erred under HISA Rule 5510. Like in this case, where a urine or blood sample is not transported to a laboratory on the day of collection, Rule 5510 explicitly requires that the sample be stored “in a secure freezer or refrigerator” (urine) or “secure refrigerator” (blood) and that there be documentation of “who has custody of the Samples or who is permitted access to the Samples.” There was no evidence showing HIWU’s compliance with Rule 5510, nor did the Arbitrator analyze, or even discuss, Rule 5510 in the Decision. Due to the absence of Rule 5510 evidence, Appellant made multiple requests for DNA testing during the case, which the Arbitrator denied.

Though she found that the B sample laboratory’s “record keeping . . . is inadequate,” the Arbitrator nonetheless erred under HISA Rule 6315(b). Rule 6315(b) requires that “[a] minimum

of 2 Certifying Scientists [] conduct an independent review of” a laboratory’s analysis before reporting a result. There is no legal support for the Arbitrator’s finding that “Marc Benoit conducted a technical review” or that his typed initials or signature on a personnel sample signature page suffice as an attestation within the meaning of “Certifying Scientist” under Rule 6315(b).

Second, Appellant will show that the Arbitrator erred in determining that chain of custody failures and other departures from the HISA Rules were all subject to HISA Rule 3122(d). There is no HISA Rule stating that Rule 3122(d) applies to all violations of the HISA Rules. And even if Rule 3122(d) applies to the “Laboratory Standards set forth in the Rule 6000 Series,” there is no plain-text support for the Arbitrator’s overly broad reading that Rule 3122(d) likewise applies to Rule 5510, which is not enumerated in the Rule 6000 Series. Moreover, the Arbitrator’s determination is incongruent with legal principles of *quid pro quo* fairness.

Third, Appellant will succeed in showing that the Arbitrator erred in granting HIWU’s Motion for Further Analysis. HISA Rule 1010 does not define “Further Analysis” to include retesting by a different laboratory. HISA’s proposed changes to HISA Rule 1010, which were published during this case and which are attached as **Exhibit A**, confirm the Arbitrator’s error.

2. Whether Appellant will suffer irreparable harm

Appellant has already suffered irreparable harm and will continue to suffer irreparable harm if a stay is not granted. Indeed, as the Arbitrator found, “[Appellant] has suffered financially, professionally, and emotionally and [harm] will no doubt continue [if the final civil sanction takes effect].” (*See* Decision, p. 47). The Arbitrator’s finding was no doubt based on Appellant’s testimony that Appellant has suffered reputational harm and lost significant business opportunities. The imposition of the final civil sanction threatens Appellant’s opportunity to compete in one-time racing competitions that can never be recovered. “Courts have found such one-time opportunities

to constitute irreparable harm.” See *Monga v. Nat'l Endowment for Arts*, 323 F. Supp. 3d 75, 94-95 (D. Me. 2018) (citing cases).

Specific to the HISA Rules at issue here, a federal district court temporarily stayed the Rules due to a threat of irreparable harm. *Nat'l Horsemen's Benevolent & Protective Ass'n v. Black*, No. 5:21-CV-071-H, 2023 WL 2753978, at *6 (N.D. Tex. Mar. 31, 2023). Appellant’s final civil sanction includes fines and compliance costs that may be nonrecoverable. Similarly, in *Louisiana v. Horseracing Integrity & Safety Auth. Inc.*, the federal district court enjoined the HISA Rules promulgated under the original version of HISA’s enabling statute, determining that those Rules would have resulted in irreparable harm. 617 F. Supp. 3d 478, 500 (W.D. La. 2022). Both *Black* and *Louisiana* support a finding of irreparable harm, particularly considering the continued constitutional challenge against HISA (in *Black*).

3. Degree of injury to other parties or third parties

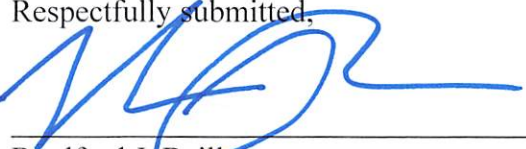
There is no risk of injury to other parties or third parties if a stay is granted. As has been acknowledged under the HISA Rules in other cases, a stay pending adjudication does not harm HIWU (the only other party). See *In the Matter of: Derrick Parram Appellant*, Dkt. No. D-9424, WL 168054 (Jan. 2, 2024). Even if harm could result, the risk of harm is lower and is outweighed by Appellant’s strong showing of likelihood of success on the merits and irreparable injury.

4. Whether a stay is in the public interest

A stay is in the public interest. “The public interest is served by ensuring that governmental bodies comply with the law . . .” *Am. Signature, Inc. v. United States*, 598 F.3d 816, 830 (Fed. Cir. 2010) (applying the injunctive relief factors in the context of an agency’s application of administrative rules); see *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018) (affirming injunctive relief) (“The public interest is served by compliance with [administrative rules and

procedures].”). Allowing a final civil sanction to take effect when the sanction arises from the improper application of agency rules compromises the public interest. Further, like the low risk of harm to HIWU or third parties, any interest the public has in imposition of the final civil sanction is substantially outweighed by Appellant’s strong showing of likelihood of success on the merits and irreparable injury.

For the forgoing reasons, Appellant requests a stay during these proceedings.

Respectfully submitted,


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CERTIFICATE OF SERVICE

Pursuant to 16 CFR 1.146(a) and 16 CFR 4.4(b), a copy of the forgoing is being served this 14th day of February, 2024, via first-class mail and/or electronic mail upon the following:

Office of the Secretary
Federal Trade Commission
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Washington, DC 20580

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EXHIBIT A

1000. General Provisions

Rule 1010. Rules of Interpretation

Unless specified otherwise:

- (a) words in the singular include the plural, and words in the plural include the singular;
- (b) references to any “Rule” or “Rule Series” are references to the rules or rule series approved by the Commission pursuant to section 3053 of the Act;
- (c) any Appendices to a Rule Series form an integral part of such Rule Series;
- (d) any reference to a provision in rules, protocols, policies, standards, guidelines, or similar includes any modifications or successor provisions made or issued from time to time;
- (e) any reference to legislation includes any modification or re-enactment of legislation enacted in substitution of that legislation, and any regulation or other instrument from time to time issued or made under that legislation;
- (f) any term defined in this Rule 1000 Series shall supersede the definition of that term in the Rule 2000 Series;
- (g) a reference to “writing,” “write,” or “written” includes communications transmitted by email;
- (h) a reference to “may” means “in the sole and absolute discretion of such person or body”;
- (i) a reference to a “day” means any day of the week and is not limited to working days;
- (j) any time limits shall begin from the day after which the relevant notification is received (or the day after the relevant notification is sent, if sent by email). Official holidays and non-working days are included in the calculation of time limits. ~~The time~~ Time limits ~~fixed under this Protocol~~ are respected if the communications by the parties are sent before midnight (U.S. Eastern time) on the last day on which such time limits expire. If the last day of the time limit is an official holiday or a non-business day in the state or country from where the ~~notification has been made~~ document is to be sent, the time limit shall expire at the end of the first subsequent business day;
- (k) a reference to a “person” (with no initial capital letter) means a natural person; and
- (l) any words following the terms “including,” “include,” “in particular,” “such as,” “for example,” or any similar expression, are illustrative only, and do not limit the sense of the words, description, definition, phrase, or term preceding those terms.

Rule 1020. Definitions

Act means the Horseracing Integrity and Safety Act of 2020 (15 U.S.C. 3051-3060), as amended from time to time.

ADMC means the Anti-Doping and Medication Control Standing Committee of the Authority.

Administration means providing, supplying, supervising, facilitating, or otherwise participating in the Use or Attempted Use in a Covered Horse of a Prohibited Substance or Prohibited Method.

However, this definition shall not include the actions of bona fide veterinary personnel involving a Controlled Medication Substance or Controlled Medication Method used for genuine and legal therapeutic purposes or other acceptable justification.

Adverse Analytical Finding (“AAF”) means a report from a Laboratory that, consistent with the Laboratory Standards, establishes in a Sample the presence of a Prohibited Substance or its Metabolites or Markers or evidence of the Use of a Prohibited Method.

Agency means the anti-doping and controlled medication enforcement agency known as the Horseracing Integrity ~~and~~ Welfare Unit.

Aggravating Circumstances means circumstances involving, or actions by, a Covered Person that may justify the imposition of one or both of a period of Ineligibility or fine greater than the otherwise applicable standard sanction. Such circumstances and actions include those set forth in Rule 3227 or Rule 3327 (as applicable).

Aliquot means a portion of the Sample obtained from the Covered Horse used in the analytical process.

Analyte means a substance, compound, or measurand that is analyzed or determined in a biological matrix using an Analytical Testing Procedure performed under controlled analytical and laboratory conditions. For anti-doping and controlled medication purposes, an Analyte may be a Prohibited Substance, a Metabolite of a Prohibited Substance, or a Marker of the Use of a Prohibited Substance or Prohibited Method.

Analytical Method has the same meaning as Analytical Testing Procedure.

Analytical Testing means the parts of the Doping Control or Medication Control process performed at the Laboratory, which includes Sample handling, analysis, and the reporting of results.

Analytical Testing Procedure means a Fit-for-Purpose procedure, as demonstrated through method validation, that is used to detect, identify or quantify Analytes in a Sample in accordance with the Laboratory Standards and relevant Technical Document(s), Technical Letter(s), Technical Note(s), or Laboratory Guidelines. Unless the context otherwise requires, Analytical Testing Procedure is also referred to or known as an Analytical Method or Test Method.

Analytical Testing Restriction (“ATR”) means a restriction on a Laboratory's application of specified Analytical Testing Procedure(s) or on the analysis of a particular class (~~es~~ or classes) of Prohibited Substances or Prohibited Methods to Samples, as determined by the Agency.

Anti-Doping Rule Violation (“ADRV”) means an anti-doping rule violation under the Protocol, as set forth in Rules 3212 to 3216.

Arbitral Body has the meaning given to it in the Rule 7000 Series.

Arbitration Procedures means ~~the arbitration procedures set forth in~~ the Rule 7000 Series, as amended from time to time.

Arbitrator means an arbitrator who is a member of the Arbitral Body.

Assistant Trainer means a person engaged in the training of Covered Horses, under the direct or indirect supervision of a Trainer.

Associated Person means a Close Relation, assistant, representative, employer, employee, agent, partnership, partner, corporation, business associate, or affiliate of a Covered Person; and any other Person whose relationship (whether financial or otherwise) with the Covered Person in issue would give the appearance that such Person would care for, train, or race one or more Covered Horse(s) or perform veterinary services for Covered Horse(s) for the benefit, credit, reputation, or satisfaction of the Covered Person in issue.

Association Veterinarian means a Veterinarian employed by a Racetrack.

Attempt means purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an Anti-Doping Rule Violation or Controlled Medication Rule Violation; provided, however, that there shall be no Anti-Doping Rule Violation or Controlled Medication Rule Violation based solely on an Attempt to commit a violation if the Covered Person renounces the Attempt prior to it being discovered by a third party not involved in the Attempt.

Attending Veterinarian means a Veterinarian providing treatment or services to Covered Horses hired or otherwise authorized by the Trainer or Owner or his or her respective designee.

Atypical Finding means a report from a Laboratory that requires further investigation in accordance with the Atypical Findings Policy set out at Appendix 1 to the Protocol, prior to the determination of whether or not it is an Adverse Analytical Finding.

Atypical Findings Policy means the policy set out at Appendix 1 to the Protocol.

Authority means the Horseracing Integrity and Safety Authority, Inc. designated by section 3052(a) of the Act.

Banned Method has the meaning given to it in Rule 3111.

Banned Substance has the meaning given to it in Rule 3111.

Batch means a set of Samples processed as a group.

Bias means deviation of a measured result from the expected or reference value when using the complete measurement procedure.

Billing Standards means the standards governing compensation for ~~arbitrators and stewards~~ Arbitrators under the Arbitration Procedures.

Blood Collection Officer ("BCO") means a Veterinarian or ~~a~~ veterinary technician who has been ~~authorized~~ certified by the Agency (or its delegate) to collect blood Samples from a Covered Horse in accordance with the Testing and Investigation Standards and related Agency procedures. A BCO is also a Collection Officer (as defined below).

Breeder means a Person who is in the business of breeding Covered Horses.

Certified Reference Material ("CRM") means Reference Material characterized by a metrologically valid procedure for one or more specified properties, which is accompanied by a certificate that provides the value of the specified property, its associated uncertainty, and a statement of metrological traceability.

Certifying Scientists means personnel appointed by a Laboratory to review all pertinent analytical data, Analytical Method validation results, quality control results, Laboratory Documentation Packages, and to attest to the validity of the Laboratory's test results.

Chain of Custody means the sequence of individuals or organizations who have responsibility for the custody of a Sample from the provision of the Sample until the Sample has been delivered to the Laboratory for analysis.

~~*Chaperone* means a person authorized by the Agency (or its delegate) to carry out the responsibilities given to Chaperones in the Testing and Investigations Standards or by the DCO.~~

Charge Letter has the meaning given to it in (as the context requires) Rule 3248 or Rule 3348.

Claim means, in the context of a Claiming Race, the purchase of a Covered Horse for a designated amount.

Claimed Horse Sample has the meaning given to it in Rule 3133(c)(2).

Claimed Horse Testing has the meaning given to it in Rule 3133(c)(2).

Claiming Race means a Covered Horserace in which a Covered Horse after leaving the starting gate may be claimed in accordance with the rules and regulations of the applicable State Racing Commission.

Clearance Sample has the meaning given to it in Rule 3133(c)(2).

Clearance Testing has the meaning given to it in Rule 3133(c)(2).

Close Relation means a spouse, domestic partner, companion (i.e., person who cohabits with or shares living accommodations with the person in issue), or romantic relation; a relative of any spouse, domestic partner, companion, or romantic relation; a former spouse or former domestic partner; or a parent, step-parent, grandparent, child, step-child, grandchild, sibling, step-sibling, cousin, aunt, uncle, niece, nephew, or other family member (whether biological, adoptive, legal, or de facto).

Code of Ethics means the Code of Ethics for Laboratories set forth at Rule 6610.

Collection Assistant means an individual who has been certified by the Agency (or its delegate) to assist the Test Barn Veterinarian, the CO, or the BCO with Sample collection activities in accordance with the Testing and Investigations Standards and any related Agency procedures.

Collection Officer ("CO") means an individual who has been certified by the Agency (or its delegate) to carry out the responsibilities given to COs in the Testing and Investigations Standards and any related Agency procedures. A CO is not authorized by the Agency (or its delegate) to collect blood Samples from a Covered Horse unless they are a BCO.

Commission means the Federal Trade Commission.

Confirmation Procedure ("CP") means an Analytical Testing Procedure that has the purpose of confirming the presence in a Sample—or, when applicable, confirming the concentration, ratio, or score, or establishing the origin (exogenous or endogenous)—of one or more specific Prohibited Substances, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method.

Consequences means the penalties resulting from the occurrence of one or more violations of the Protocol, as set forth in the Rule 3000 Series. The Consequences for an Anti-Doping Rule Violation or a Controlled Medication Rule Violation may include one or more of the following:

- (1) Disqualification;
- (2) Ineligibility;
- (3) Provisional Suspension;
- (4) financial penalties;
- [\(5\) training or education relating to the requirements and purposes of the Protocol](#); and
- ~~(5)~~ Public Disclosure.

Contaminated Product means a product other than feed, hay, or water, that contains a Prohibited Substance that (i) is not disclosed on the product label, and (ii) a Veterinarian or ~~Trainer~~[Responsible Person](#) would not otherwise reasonably be aware might be included in the product.

Controlled Medication Method means any method so described on the Prohibited List.

Controlled Medication Rule Violation ~~has the meaning given to it in Rule 3311(a) (“CMRV”)~~ [means a controlled medication rule violation under the Protocol, as set forth in Rules 3312 to 3314.](#)

Controlled Medication Substance means any substance so described on the Prohibited List or the Technical Document-Prohibited Substances.

Corrective Action Report (“CAR”) means a report describing the Root Cause Analysis of a nonconformity and the corrective actions implemented to rectify it. If appropriate, it shall also describe the improvements adopted to minimize the risk of recurrence of the nonconformity.

Covered Horse means any Thoroughbred horse, or any other horse made subject to the Act by election of the applicable State Racing Commission or the breed governing organization for such horse under section 3054(1) [of the Act](#), during the period: (A) beginning on the date of the horse's first Timed and Reported Workout at a ~~Racetrack~~[racetrack](#) that participates in Covered Horseraces or at a training facility; and (B) ending on the date on which the horse is deemed retired pursuant to Rule 3050(b).

Covered Horserace means any horserace involving Covered Horses that has a substantial relation to interstate commerce, including any Thoroughbred horserace that is the subject of interstate off-track or advance deposit wagers.

Covered Person means 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.

Decision Limit means the value of the result for a Threshold Substance in a Sample, above which an Adverse Analytical Finding shall be reported.

Designated Owner has the meaning given to it in Rule 3020(c).

Detection Time means the interval after a ~~medication~~Controlled Medication Substance is administered during which it is detectable in a specific matrix (serum, plasma, urine, or hair) from any member(s) of a group of test horses. Detection ~~times~~Times are determined from analysis of samples collected at specific time points following an administration of a ~~medication~~Controlled Medication Substance to a group of, potentially as few as 2, test horses. A ~~detection time~~Detection Time is not the same as a ~~withdrawal time~~. ~~The withdrawal time for a medication must be decided upon by a Veterinarian (in consultation with the Responsible Person) and is likely to be based on the Detection Time and an added safety margin. This margin should be determined using professional judgment and discretion to take into account the variability that could be expected to normally occur in a larger population by considering individual differences between horses, such as size, metabolism, fitness, health, or recent illness or disease. The withdrawal interval used for a medication should always be longer than its~~ Withdrawal Time.

Disqualification means the results of a Covered Horse in a particular Covered Horserace are invalidated, with all resulting consequences, including forfeiture of any purses and other compensation, prizes, trophies, points, and rankings associated with such Covered Horserace.

Doping Control means all steps and processes from test distribution planning through to ultimate disposition of any adjudication and review process pursuant to the Protocol and the Act involving an Anti-Doping Rule Violation and the enforcement of Consequences, including all steps and processes in between, including Testing, investigations, whereabouts ~~program~~information, Sample collection and handling, Laboratory analysis, Results Management, hearings and reviews, and investigations and proceedings relating to Anti-Doping Rule Violations not arising from or related to Testing or relating to violations of Rule 3229.

~~*Doping Control Officer (“DCO”)* means an official who has been authorized by the Agency (or its delegate) to carry out the responsibilities given to DCOs in the Testing and Investigations Standards and any related Agency procedures.~~

EAD Notice (“Equine Anti-Doping Notice”) has the meaning given to it in Rule 3245.

EAD Violations (“Equine Anti-Doping Violations”) means Anti-Doping Rule Violations ~~arising out of the Rule 3000 Series~~ and violations of Rule 3229.

ECM Notice (“Equine Controlled Medication Notice”) has the meaning given to it in Rule 3345.

ECM or Other Violations (“Equine Controlled Medication or Other Violations”) means Controlled Medication Rule Violations ~~arising out of the Rule 3000 Series~~, violations of Rule 3329, violations of Rule 3510, or violations of Rule ~~3510~~3520.

Effective Date means the date that the Commission approves the relevant Rule Series.

Environmental Contamination means substances arising from plants traditionally grazed or harvested as equine feed, and substances in equine feed or bedding arising from contamination during cultivation, processing or treatment, storage, or transportation.

Equibase means the official database for Thoroughbred horseracing.

Equine Constituencies means, collectively, Owners, Breeders, Trainers, Racetracks, Veterinarians, State Racing Commissions, and Jockeys who are engaged in the care, training, or racing of Covered Horses.

Equine Industry Representative means an organization regularly and significantly engaged in the equine industry, including organizations that represent the interests of, and whose membership consists of, Owners, Breeders, Trainers, Racetracks, Veterinarians, State Racing Commissions, or Jockeys.

Expanded Measurement Uncertainty means the multiplication of the coverage factor (q.v.) by the Measurement Uncertainty (q.v.).

External Quality Assessment Scheme ("EQAS") means a program for quality assessment of Laboratory performance, which includes the periodic distribution of urine, blood, hair, or other samples to Laboratories and probationary laboratories by the Agency, to be analyzed for the presence or absence of Prohibited Substances or their Metabolite(s), or Marker(s) of Use of Prohibited Substances or Prohibited Methods. EQAS samples may be open (i.e., educational; in such cases the content may be indicated), blind or double-blind (in such cases the content is unknown to the Laboratories).

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. 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 [and related rules and procedures](#). 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.

Fit(ness)-for-Purpose means suitable for the intended purpose and in conformity with the ISO/IEC 17025, ILAC-G7, the Laboratory Standards, and relevant Technical Document(s) and Technical Letter(s).

Further Analysis means additional analysis conducted by ~~a Laboratory~~any laboratory on ~~an A Sample or a B~~ Sample after ~~it has reported~~ an analytical result has been reported by a Laboratory for that ~~A Sample or that B~~ Sample, save that it excludes (and, therefore, there is no limitation on a Laboratory's authority to conduct) repeat or confirmation analysis; and analysis with additional or different Analytical Methods. Such Further Analysis may include (without limitation) analysis for purposes of research, intelligence, monitoring, or evidence in support of a Use charge.

HISA Equine Analytical Laboratory (HEAL) accreditation means the Laboratory accreditation granted by the Agency that is obtained and maintained in accordance with the Laboratory Standards.

IAP member~~Member~~ means an adjudicator who is a member of the Internal Adjudication Panel.

~~Immediate Family Member~~ means a spouse, domestic partner, mother, father, aunt, uncle, sibling, or child.

Ineligibility means the Covered Horse or Covered Person is barred for a specified period of time from participating in specified activities, as further particularized in the provisions of the Protocol relating to Ineligibility.

Initial Testing Procedure ("ITP") means an Analytical Testing Procedure ~~whose purpose is used~~ to identify those Samples that may contain a Prohibited Substance, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method, or an elevated quantity of a Prohibited Substance, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method.

Intact Male means a male horse with one or both testicles, whether descended or undescended (i.e., an uncastrated colt, a stallion, or a ridgling).

Interested Party means the Authority, the Owner of the Covered Horse, the Trainer of the Covered Horse, and the relevant State Racing Commission (provided that such State Racing Commission has entered into an agreement incorporating required confidentiality provisions).

Intermediate Precision (sw) means variation in results observed when one or more factors, such as time, equipment, or operator, are varied within a Laboratory, and may also be referred to as inter-batch or inter-run precision.

Internal Adjudication Panel has the meaning given to it in the Rule 7000 Series. ~~The Internal Adjudication Panel shall have the same meaning as the National Stewards Panel in any other rules approved by the Commission.~~

Jockey means a rider or driver of a Covered Horse in Covered Horseraces.

Laboratory means a HEAL-accredited or RMTC-accredited laboratory approved by the Agency, applying Test Methods and processes to provide evidentiary data for or in relation to the detection or identification of Prohibited Substances, Metabolites, Markers, or Prohibited Methods, and, if applicable, quantification of a Threshold Substance, in Samples of urine, blood, hair, and other biological matrices in the context of Doping Control or Medication Control activities.

Laboratory Director means a person appointed by a Laboratory to be responsible for overseeing the professional, organizational, educational, operational, and administrative responsibilities of the Laboratory's operations in accordance with the Laboratory Standards.

Laboratory Documentation Package ("LDP") means the physical or electronic material produced by a Laboratory upon reporting of an Adverse Analytical Finding or as requested by the Agency to support an analytical result such as an Adverse Analytical Finding or an Atypical Finding or to support a Use violation.

Laboratory Expert Group ("LabEG") means the group of laboratory experts responsible for providing advice, recommendations, and guidance to the Agency with respect to the overall management of Laboratory accreditation, disciplinary action, re-accreditation, approval processes, and monitoring activities.

Laboratory Guidelines ("LGs") means recommendations of Laboratory best practices that may be provided by the Agency to address specific Laboratory operations or to provide technical requirements and guidance on interpretation and reporting of results for the analysis of specific Prohibited Substance(s), Metabolites, or Markers, or Prohibited Method(s), or on the application of specific Laboratory procedures.

Laboratory Internal Chain of Custody means documentation maintained within the Laboratory to record the chronological traceability of custody and actions performed on the Sample and any Aliquot of the Sample taken for Analytical Testing. Laboratory Internal Chain of Custody is generally documented by a written or electronic record of the date, location, action taken, and the person performing an action with a Sample or Aliquot.

Laboratory Standards means the [Rule 6000 Series](#) (Equine Standards for Laboratories and Accreditation ~~set forth in the Rule 6000 Series~~), [as amended from time to time](#).

Laboratory Supervisory Personnel means personnel appointed by a Laboratory to serve as Laboratory supervisors.

[Lead Veterinarian means any Veterinarian appointed pursuant to Rule 2134\(c\).](#)

Limit of Detection (“LOD”) means the analytical ~~parameters~~[parameter](#) of assay technical performance. ~~Lowest~~[The LOD is the lowest](#) concentration of an Analyte in a Sample that can be routinely detected, but not necessarily identified or quantified, under the stated Test Method conditions used.

Limit of Identification (“LOI”) means [the](#) analytical parameter of technical performance for chromatographic-mass spectrometric Confirmation Procedures. The LOI is estimated during method validation to evaluate the rate of false negative results at a certain concentration level. The LOI of a Test Method, at 5% false negative rate, for an Analyte (for which a Reference Material is available) shall be less than the MRPL. Since the LOI is an estimation of the false negative rate, Laboratories may report findings below the estimated LOI as Adverse Analytical Findings or Atypical Findings, as applicable, when the Analyte is [reliably](#) identified in the Sample ~~according to the criteria established in a Technical Document~~.

Limit of Quantification (“LOQ”) means the analytical parameter of assay technical performance. ~~Lowest~~[The LOQ is the lowest](#) concentration of an Analyte in a Sample that can be quantitatively determined with acceptable precision and accuracy (i.e., acceptable Measurement Uncertainty) under the stated Test Method conditions.

Management System refers to the Laboratory's quality system to deal with control of management system documents and records and with actions to address risk, test improvements, corrective actions, and ongoing management reviews.

Managing Owner has the meaning given to it in Rule 3020(c).

Marker means a compound, group of compounds, or biological variable(s) that ~~indicates~~[indicate\(s\)](#) the Use of a Prohibited Substance or Prohibited Method.

Measurement Uncertainty (“MU”) means the parameter associated with a measurement result that characterizes the dispersion of quantity values attributed to the measure and provides confidence in the validity of the measured result.

Medication Control means all steps and processes from test distribution planning through to ultimate disposition of any adjudication and review process pursuant to the Protocol and the Act involving a Controlled Medication Rule Violation and to enforcement of Consequences, including all steps and processes in between, including Testing, investigations, whereabouts ~~program~~[information](#), Sample collection and handling, Laboratory analysis, Results Management, hearings and reviews, and investigations and proceedings relating to Controlled Medication Rule Violations not arising from or related to Testing or [relating to](#) violations of Rule 3329.

Metabolite means any substance produced from a Prohibited Substance by a biotransformation process.

Minimum Reporting Level means the estimated concentration of a Prohibited Substance or its Metabolite(s) or Marker(s) in a Sample below which Laboratories will not report that Sample as an Adverse Analytical Finding.

Minimum Required Performance Level ("MRPL") means minimum analytical criterion of Laboratory technical performance established by the Agency, including the minimum concentration at which a Laboratory is expected to consistently detect and confirm a Prohibited Substance, Metabolite of a Prohibited Substance, or Marker of a Prohibited Substance or Prohibited Method in the routine daily operation of the Laboratory.

Minor means a natural person who has not reached the age of 18 years.

~~*National Stewards Panel* means the Internal Adjudication Panel.~~

Negative Finding means a test result from a Laboratory that, in accordance with the Laboratory Standards and any relevant Technical Document(s) and Technical Letter(s), concludes that no Prohibited Substance(s) or its Metabolite(s) or Marker(s) or evidence of the Use of a Prohibited Method(s), included in the requested Analytical Testing menu, were found in a Sample based on the applied Initial Testing Procedure(s) or Confirmation Procedure(s).

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. 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.

Nominated Person has the meaning given to it in Rule 3040(b)(2)(ii).

No Significant Fault or Negligence means 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~~relation 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.

~~*Nominated Person* means a person nominated by a Responsible Person at the time of notification or through a whereabouts filing to assist, consent to, and witness Sample collection from a Covered Horse. If the Responsible Person is not present to nominate a person, or the designated Nominated Person is not present or willing to assist with Sample collection, anyone employed by the Responsible Person or Owner at the stable where the Covered Horse is located shall be the Nominated Person for that Sample collection. If no Nominated Person is promptly identified as described above, the person who has custody or control of the Covered Horse or granted the DCO, BCO, or Chaperone access to the Covered Horse shall be the Nominated Person for that Sample collection. In each case, the Nominated Person shall be 18 years or older.~~

Non-Threshold Substance means a Prohibited Substance for which the identification, ~~in compliance with any applicable Technical Document(s),~~ constitutes an Adverse Analytical Finding.

Out-of-Competition Sample has the meaning given to it in Rule 3133(a).

Out-of-Competition Testing has the meaning given to it in Rule 3133(a).

Owner means a person who holds an ownership interest in one or more Covered Horses.

Person means a natural person or an organization or other entity.

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 Rule Violation or Controlled Medication Rule ~~violation~~Violation based solely on Possession if, prior to receiving notification of any kind ~~of any violation~~that the Covered Person has committed an Anti-Doping Rule Violation or Controlled Medication Rule 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.

~~*Post-Race Sample* means a Sample collected by or on behalf of the Agency from a Covered Horse where notification of such Sample collection takes place no more than 1 hour after the end of a Covered Horserace in which a Covered Horse participates or is entered, or the end of a Vets' List Workout in which a Covered Horse participates. All Banned Substances and all Controlled Medication Substances are prohibited from being present in a Post-Race Sample~~has the meaning given to it in Rule 3133(a).

Post-Race Testing has the meaning given to it in Rule 3133(a).

Post-Time means the scheduled (and any rescheduled) start time of a Covered Horserace in which a Covered Horse participates or is entered, ~~or the start time of a Vets' List Workout in which a Covered Horse participates.~~

~~*Post-Work Sample* means a Sample collected by or on behalf of the Agency from a Covered Horse where notification of such Sample collection takes place no more than 1 hour after the end of a Timed and Reported Workout. All Banned Substances and any Controlled Medication Substances specifically identified on the Prohibited List as prohibited during Timed and Reported Workouts are prohibited from being present in a Post-Work Sample~~has the meaning given to it in Rule 3133(a).

Post-Work Testing has the meaning given to it in Rule 3133(a).

[Post-Vets' List Work Sample](#) has the meaning given to it in Rule 3133(c)(2).

[Post-Vets' List Work Testing](#) has the meaning given to it in Rule 3133(c)(2).

Presumptive Adverse Analytical Finding ("PAAF") means the status of a Sample test result from the Initial Testing Procedure which represents a suspicious finding, but for which a Confirmation Procedure to render a conclusive test result has not yet been performed.

Program means the anti-doping and medication control program established under section 3055(a) of the Act.

Program Effective Date means ~~the date on which the Commission approves the proposed rule~~ May 22, 2023.

Prohibited List means ~~the list identifying Prohibited Substances and Prohibited Methods set forth in~~ the Rule 4000 Series, as amended from time to time.

Prohibited Method(s) means any method(s) or class(es) of methods so described on the Prohibited List. The term 'Prohibited Method(s)' includes both Banned Substances and Controlled Medication Methods.

Prohibited Substance(s) means any substance(s) or class(es) of substances so described on the Prohibited List or the Technical Document-Prohibited Substances. The term 'Prohibited Substance(s)' includes both Banned Substances and Controlled Medication Methods.

Protocol means the Rule 3000 Series (Equine Anti-Doping and Controlled Medication Protocol), as amended from time to time.

Provisional Hearing means an expedited abbreviated hearing to resolve a challenge to a Provisional Suspension, occurring prior to the adjudication of the violation in issue.

Provisional Suspension means the Covered Horse or Covered Person is barred temporarily from participating in any Timed and Reported Workout ~~or~~ Covered Horserace, or other activity in accordance with ~~Rules~~ Rule 3229 or Rule 3329 (as applicable).

Public Disclosure means the dissemination or distribution of information by the Authority or the Agency to the general public.

Quality Manager means the staff member appointed by a Laboratory to perform that role in accordance with the Laboratory Standards.

Race Day means the period commencing at 12:01 a.m. on the day of a ~~Vets' List Workout or Covered Horserace~~ and ending (i) 1 hour after the end of such ~~Vets' List Workout or Covered Horserace~~ or (ii) ~~at the end of any Sample Collection Session conducted at that Vets' List Workout or Covered Horserace~~ when the Covered Horse is released from the Test Barn at the end of any Post-Race Sample Collection Session, whichever is later.

Race Organizer means any Person that arranges, organizes, and has administrative responsibility for a Covered Horserace.

Race Period means the period:

(a) commencing 48 hours prior to the Post-Time of ~~either (i) any Vets' List Workout in which the Covered Horse participates or (ii) any Covered Horserace that the Covered Horse has been entered in, whether or not the Covered Horse actually starts; and~~

(b) ending:

(i) if the Covered Horse starts in the Covered Horserace, (A) when the Covered Horse is released from the Test Barn at the end of any Post-Race Sample Collection Session, if applicable; or (B) 1 hour after the end of such Vets' List Workout or Covered Horserace or,

(ii) ~~at if the end of any Sample collection process conducted at that Vets' List Workout or Covered Horse is scratched from the~~ Covered Horserace ~~when the Covered Horse is released from the Test Barn,~~ (A) when the Regulatory Veterinarian recommends the scratch; (B) when the Responsible Person (or his or her delegate) submits an official documented request to the stewards or race office to make the scratch; or (C) when the stewards or race office order(s) the scratch; whichever is ~~later~~earlier.

However, the Prohibited List may specify a Race Period that is shorter or longer in duration than the above period for certain Controlled Medication Substances or Controlled Medication Methods.

Racetrack means an organization licensed by a State Racing Commission to conduct Covered Horseraces.

Racetrack Safety Program means the ~~program set forth in~~ Rule 2000 Series, ~~established pursuant to section 3056(a) of the Act~~ as amended from time to time.

Reference Collection ("RC") means a collection of samples or isolates of known origin that may be used in the determination of the identity of an unknown substance. For example, a well-characterized sample obtained from a controlled administration or from in vitro studies in which the presence of the substance of interest has been established.

Reference Material ("RM") means a ~~Reference Substance or Reference Standard~~ reference substance or reference standard that is sufficiently characterized, homogeneous, and stable with respect to one or more specified properties and that has been established to be fit for its intended use in an Analytical Testing Procedure.

Regulatory Veterinarian means a Veterinarian who is employed, contracted, or appointed ~~by a State Racing Commission, Racetrack, the Authority, or the Agency to monitor the health and welfare of Covered Horses, in addition to any other duties assigned to him or her by the Authority or the Agency~~ pursuant to Rule 2134(b). Any reference to Regulatory Veterinarian in the Rule 1000, 3000, 4000, 5000, 6000 and 7000 Series shall include the Lead Veterinarian, where applicable.

Repeatability (sr) means variability of results obtained within a laboratory using the same method, over a short time, using a single operator, item of equipment, etc. It is also referred to as intra-batch/intra-run precision.

Reproducibility (sR) means variability of results obtained when different laboratories analyze Aliquots of the same Sample. Reproducibility is a property of the results obtained and represents a measurable agreement of analytical results between different laboratories.

Responsible Person has the meaning given to it in Rule 3030.

Restricted Administration Period means an interval specified in the Prohibited List or Technical Document-Prohibited Substances (other than the Race Period) during which Use or Administration of a Controlled Medication Substance or Controlled Medication Method on a Covered Horse is prohibited. To compute the duration of any Restricted Administration Period, the day of administration shall be considered day 1.

Results Management means the process encompassing the timeframe from provision of an EAD Notice or ECM Notice through the charge until the final resolution of the matter, including the end of any adjudication and review process pursuant to the Protocol and the Act.

Revocation means the permanent withdrawal of a Laboratory's Equine Analytical Laboratory accreditation by the Agency.

Risk Assessment means the assessment of risk of doping and controlled medication misuse or other horse welfare concerns conducted by the Agency and used to effectively conduct test distribution planning or Target Testing.

RMTC has the meaning given to it in Rule 6070(a).

Root Cause Analysis ("RCA") means an investigation to identify one or more fundamental causes of a nonconformity based on the collection of objective evidence from an assessment of the likely factors that led to the nonconformity. The removal of a root cause factor prevents the recurrence of the nonconformity; in contrast, removing a causal factor can improve the outcome, but it does not prevent the recurrence of the problem with certainty.

Sample means any biological material collected for the purposes of Doping Control or Medication Control, (including, without limitation, urine, blood, and hair) or for the purposes of research in support of Doping Control, Medication Control, or horse welfare including (without limitation) research to understand and reduce equine fatalities and injuries.

Sample Collection Equipment means ~~A and B~~the bottles, kits, containers, collection vessels, tubes, or other apparatus used to collect, hold, or store a Sample at any time during or after a Sample Collection Session.

Sample Collection Personnel means all qualified officials ~~authorized~~certified by the Agency to carry out or assist with duties during ~~Doping Control or Medication Control~~a Sample Collection Session, including, but not limited to, Test Barn Supervisors (for Post-Race Testing), Collection Officers, Blood Collection Officers, Doping Control Officers, and Chaperones and Collection Assistants. An individual may be ~~authorized~~certified by the Agency to carry out one or more roles during ~~Doping Control or Medication Control~~a Sample Collection Session.

Sample Collection Session means all of the sequential activities that directly involve the collection of a Sample from a Covered Horse from the point that initial contact is made with the Responsible Person or Nominated Person until the Covered Horse provides a Sample and is ~~discharged~~released from the Test Barn (for Post-Race Testing) or other Sample collection obligationslocation (for all other Sample collections) by the relevant Sample Collection Personnel.

Screening Limit means a concentration to be used by Laboratories when screening for certain Non-Threshold Substances during the Initial Testing Procedure, below which a Laboratory ~~will~~shall not pursue the possible presence of a Prohibited Substance. When the concentration of an Analyte subject to a Screening Limit exceeds the Screening Limit as determined by the Initial Testing Procedure, qualitative confirmatory analysis by mass spectrometry Confirmation Procedure is required to confirm the presence or absence of the Prohibited Substance.

Quantification is not required. A Screening Limit is not a Limit of Detection, a Limit of Identification, or a Limit of Quantification.

Selectivity means the ability of the Analytical Testing Procedure to detect or identify (as applicable) the substance of interest in the Sample.

Specified Substance has the meaning given to it in Rule 3111(c).

Stacking Violation has the meaning given to it in Rule 3312(ec).

Stakes Race means any race so designated by the Racetrack at which such race is run, including, without limitation, the races comprising the Breeders' Cup World Championships ~~comprises~~ and the races designated as graded stakes by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association.

Standard Operating Procedure means a document setting out prescribed methods or procedures to be followed when performing certain routine operations.

Standards means the Testing and Investigations Standards and the Laboratory Standards. Compliance with a Standard (as opposed to another alternative standard, practice, or procedure) shall be sufficient to conclude that the procedures addressed by the Standard were performed properly. Standards shall include any Technical Documents issued pursuant to the Standards.

State Racing Commission means an entity designated by State law or regulation that has jurisdiction over the conduct of horseracing within the applicable state.

Substantial Assistance means, for purposes of Rule 3226(a) and Rule 3326(a), a Covered Person providing the following assistance: (1) fully disclosing in a signed written statement or recorded interview all information the Covered Person possesses in relation to violations of the Protocol; and (2) fully cooperating with the investigation and adjudication of any case or matter related to that information, including, for example, by providing an affidavit and presenting testimony at a hearing if requested to do so by the Agency or adjudication body. Further, the information provided must be credible and must comprise an important part of any case or proceeding which is initiated or, if no case or proceeding is initiated, must have provided a sufficient basis on which a case or proceeding could have been brought.

Tamper Evident means to have one or more indicators or barriers to entry included with or incorporated into the Sample Collection Equipment, which, if breached, missing, or otherwise compromised, can provide visible evidence that Tampering or Attempted Tampering of Sample Collection Equipment has occurred.

Tampering means intentional conduct that subverts the Doping Control or Medication Control process, but that would not otherwise be included in the definition of Prohibited Methods. Tampering includes, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to the Agency (~~or a committee~~ or adjudication body), procuring false testimony from witnesses, committing any other fraudulent act upon the Agency (~~or committee~~ or adjudication body) to affect Results Management or the imposition of Consequences, and any other similar interference or attempted interference with any aspect of Doping Control or Medication Control. However, this definition shall not include the actions of bona fide veterinary personnel involving a Controlled Medication Substance or Controlled Medication Method used for genuine and legal therapeutic purposes or other acceptable justification.

Target Testing means selection of specific Covered Horses for Sample collection based on criteria set forth in the Testing and Investigations Standards.

[TCO2 Sample](#) has the meaning given to it in Rule 3133(a).

[TCO2 Testing](#) has the meaning given to it in Rule 3133(a).

Technical Document (“TD”) means a document adopted and published by the Authority from time to time containing requirements or guidance on specific anti-doping or medication control topics.

[Technical Document-Prohibited Substances](#) means the Technical Document set out at Appendix 1 to the Rule 4000 Series.

Technical Letter (“TL”) means a document published by the Agency or Authority from time to time containing mandatory technical requirements ~~provided by the Agency from time to time~~ to address particular issues on the analysis, interpretation, ~~and~~or reporting of specific Prohibited Substance(s), Metabolites, Markers, or Prohibited Method(s), or on the application of specific Laboratory procedures.

Technical Note (“TN”) means technical guidance provided by the Agency to Laboratories on the performance of specific Laboratory methods or procedures.

Test Barn means the location where Sample collection is conducted ~~on~~for Post-Race Day Testing.

[Test Barn Supervisor](#) means a Collection Officer or certified Blood Collection Officer appointed by the Agency to supervise Post-Race Testing at a Test Barn, including by managing all Agency-certified Sample Collection Personnel and other persons authorized by the Agency and all Sample collection activities, in accordance with the Testing and Investigation Standards and related Agency procedures. The Test Barn Supervisor is certified by the Agency to oversee and perform all parts of a Sample Collection Session except blood collection, unless he or she is also a BCO.

Test Barn Veterinarian means a Veterinarian who is employed, contracted, or appointed by a State Racing Commission, Racetrack, the Authority, or the Agency to monitor the health and welfare of Covered Horses subject to Sample collection in the Test Barn.

Testing means ~~the parts of the Doping Control or Medication Control process involving~~ Sample collection, Sample handling, and Sample transport to the Laboratory (or other laboratory approved by the Agency), for the purposes of Doping Control or Medication Control or for the purposes of research in support of Doping Control, Medication Control, or horse welfare including (without limitation) research to understand and reduce equine fatalities and injuries.

Testing and Investigations Standards means the Rule 5000 Series (Equine Testing and Investigations Standards ~~set forth in the Rule 5000 Series~~), as amended from time to time.

Test Method has the same meaning as Analytical Testing Procedure.

Thoroughbred means a horse that is registered in The American Stud Book or in a foreign stud book approved by the Jockey Club or the International Stud Book Committee.

Threshold means the maximum permissible level of the concentration, ratio, or score for a Threshold Substance in a Sample. The Threshold is used to establish the Decision Limit for reporting an Adverse Analytical Finding or Atypical Finding for a Threshold Substance.

Thresholds may only be adopted for (i) substances endogenous to the horse or (ii) substances arising from plants traditionally grazed or harvested as equine feed.

Threshold Substance means a Prohibited Substance, or Metabolite or Marker of a Prohibited Substance, for which the identification and quantitative determination, including, for example, concentration, ratio, or score, in excess of a pre-determined Decision Limit, or, when applicable, the establishment of an exogenous origin, constitutes an Adverse Analytical Finding.

Timed and Reported Workout means an officially timed and published running of a Thoroughbred horse over a predetermined distance that is not a ~~horserace~~[race](#), as reported by Equibase or any official supplier of racing information and statistics recognized by the Authority. Official timed workouts shall have the same meaning as Timed and Reported Workouts. Any official timed workout by a Thoroughbred horse in any other jurisdiction shall be deemed a Timed and Reported Workout upon the earliest to occur of the following: (i) the horse is brought to the United States for purposes of participating in any Covered Horserace~~;~~[;](#) or (ii) the horse is nominated for a Covered Horserace.

Trafficking means a Covered Person selling, giving, transporting, sending, delivering, or distributing by any means a Banned Substance or Banned Method to any other Person, or Possessing a Banned Substance or Banned Method for any such purpose; provided, however, that Trafficking shall not include the actions of Veterinarians or other licensed medical personnel involving a Prohibited Substance used for genuine and legal therapeutic purposes or other acceptable justification.

Trainer means an individual engaged in the training of Covered Horses.

Training Facility means a location that is not a ~~Racetrack~~[racetrack](#) licensed by a State Racing Commission that operates primarily to house Covered Horses and conduct Timed and Reported Workouts.

[Transfer Sample](#) has the meaning given to it in Rule 3133(c)(2).

[Transfer Testing](#) has the meaning given to it in Rule 3133(c)(2).

Use means the utilization, application, ingestion, injection, or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method in relation to a Covered Horse.

Veterinarian means a licensed veterinarian who provides veterinary services to Covered Horses.

Veterinarians' List (or "Vets' List") has the meaning given to it in Rule 2000 Series (Racetrack Safety Program).

Vets' List Workout means an officially timed running of a Covered Horse over a predetermined distance that is not a ~~Covered Horserace~~[race](#) but is overseen by a Regulatory Veterinarian or Racetrack steward.

[WADA Code Program](#) has the meaning given to it in Rule 3060(d).

~~*Whereabouts Failure* means a failure by the Responsible Person to do any of the following: (i) provide notice to the Agency that his or her Covered Horse has been moved from a Racetrack or Training Facility to a private facility (i.e., a facility not under the jurisdiction of the Authority/Agency) before such move occurs; (ii) provide whereabouts information about his or her Covered Horse(s) upon request by the Agency; (iii) provide sufficient information about the Covered Horse's whereabouts to enable the Agency to Test the Covered Horse at any time; or~~

~~(iv) update any whereabouts information provided to the Agency if it changes.~~ Whereabouts Failure has the meaning given to it in Rule 3510(b).

Withdrawal Time means the Detection Time for a Controlled Medication Substance plus an added safety margin, determined by a Veterinarian in consultation with the Responsible Person. The added safety margin should be determined using professional judgment and discretion taking account of individual differences between horses, such as size, metabolism, fitness, health, or recent illness or disease. The Withdrawal Time used for a Controlled Medication Substance should always be longer than its Detection Time.

Without Prejudice Agreement means a written agreement between the Agency and a Covered Person that allows the Covered Person to provide information to the Agency in a defined time-limited setting with the understanding that, if an agreement for Substantial Assistance or a case resolution agreement is not finalized, the information provided by either party may not be used by the other party in any Results Management proceeding under this Protocol. Such an agreement shall not preclude the parties from using any information or evidence gathered from any source.

Workout means a timed running of a horse over a predetermined distance not associated with a race or its first qualifying race, if such race is made subject to the Act by election under section 3054(l) of the Act of the horse's breed governing organization or the applicable State Racing Commission.