



CASE RESOLUTION WITHOUT A HEARING/FINAL DECISION

On June 25, 2023, Sample Collection Personnel collected a Post-Race urine Sample, designated as Sample #U100272087, from Covered Horse Maligator after Race 2 at Hawthorne Race Course in Stickney, Illinois. Maligator's A Sample was submitted to the UIC Analytical Forensic Testing Laboratory (the "UIC Lab") in Chicago, Illinois for analysis. The UIC Lab analyzed the A Sample in accordance with the Equine Standards for Laboratories and Accreditation and reported an Adverse Analytical Finding ("AAF") because it detected O-desmethylvenlafaxine, a metabolite of Venlafaxine, in Sample #U100272087. The concentration of the substance in the Sample was approximately 10 ng/mL. Venlafaxine is a category S0 Banned Substance on the Prohibited List and Technical Document–Prohibited Substances.

Mr. David Reid, as the Responsible Person for Maligator, was served an EAD Notice relating to the AAF on July 20, 2023, which included the imposition of a Provisional Suspension under ADMC Program Rule 3247. (Mr. Reid's Provisional Suspension was changed from Active to Postponed on July 28, 2023, pursuant to a change in policy announced by HISA and HIWU.) In that EAD Notice, he had until July 25, 2023 to request the analysis of the B Sample of Sample #U100272087, and until July 27, 2023 to provide HIWU a written explanation of the AAF. Mr. Reid requested the analysis of the B Sample, and the B Sample of Sample #U100272087 was sent to the University of Kentucky Equine Analytical Chemistry Laboratory in Lexington, KY (the "KY Lab"). On September 7, 2023, the KY Lab reported the presence of O-desmethylvenlafaxine, a metabolite of Venlafaxine, in the B Sample of Sample #U100272087.

On September 11, 2023, Mr. Reid was served with the EAD Charge in connection with the matter, and his Provisional Suspension was once again made Active. After service of the EAD Charge, Mr. Reid provided documentation and other evidence relating to the source of the Banned Substance. Theresa Martinez, an assistant trainer who has been employed by Mr. Reid for over 30 years, has been prescribed Venlafaxine for 15 years, and Mr. Reid provided copies of her prescription records and a letter from her treating physician. Ms. Martinez admitted to regularly urinating on hay in the stall where the Covered Horse was kept due to lack of functioning or nearby bathroom facilities. Therefore, Mr. Reid has established the source the Banned Substance by a balance of probability through Maligator's consumption of hay contaminated by Ms. Martinez's urine.

Mr. Reid was unaware that Ms. Martinez had been prescribed or was taking Venlafaxine, he did not know Ms. Martinez relieved herself in stalls, he never issued an order or directive against urinating in stalls to his employees, and, based upon his age and physical condition, currently relies heavily on Ms. Martinez to carry out responsibilities in the care of his Covered Horses.

Based upon the facts set forth above, HIWU has determined that there is a violation of ADMC Program Rule 3212 due to the presence of a metabolite of Venlafaxine in Sample #U100272087. As a result, the proposed Consequences must now be determined by HIWU.

Under ADMC Program Rule 3224, the elimination of the Period of Ineligibility for “No Fault or Negligence” is limited to “exceptional circumstances,” and a Covered Horse’s Sample including the presence of a human prescription drug due to contamination by an individual or individuals working with horses is not such an “exceptional circumstance.”

Under ADMC Program Rule 3225(c), there can be a reduction of the Period of Ineligibility if there is No Significant Fault or Negligence on the part of the Covered Person. If it is established that the Covered Person bears No Significant Fault or Negligence for the Anti-Doping Rule Violation and that the Banned Substance in question came from a Contaminated Product or from another form of contamination, the period of Ineligibility can be, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, 2 years of Ineligibility, depending on the Covered Person's degree of Fault. Under ADMC Program Rule 3121(b), the standard of proof for the Covered Person shall be by a balance of probability (*i.e.*, a preponderance of the evidence).

Under ADMC Program Rule 1020, “No Significant Fault or Negligence” is defined as the Covered Person establishing that his or her fault or negligence, “when viewed in the totality of the circumstances . . . was not significant in relationship to the Anti-Doping Rule Violation.” For any violation of Rule 3212, the Covered Person must also establish how the Prohibited Substance entered the Covered Horse's system. Under Program Rule 1020, “*Fault* means any breach of duty or any lack of care appropriate to a particular situation. . . 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.”

Under CAS 2013/A/3327 *Cilic v. International Tennis Federation*, there are both objective and subjective elements of Fault that should be considered in determining Consequences. The objective element describes what standard of care could have been expected from a reasonable person in the Covered Person’s situation. The subjective element describes what could have been expected from that particular individual, in light of his personal capacities. The objective element is more important in making a determination as to the appropriate Consequences. There are three ranges of objective fault: slight or insignificant fault; moderate fault; and significant fault. In circumstances involving a Contaminated Product or other contamination, HIWU will consider the following ranges for periods of Ineligibility: slight or insignificant fault—reprimand to 6 months; moderate fault—7 to 15 months; and significant fault—16 to 24 months. In addition, the number of months in the periods of Ineligibility in the ranges of fault can be decreased or increased by taking into account mitigating and/or aggravating circumstances.

In this matter, HIWU has determined that, based on the circumstances, Mr. Reid has a moderate degree of Fault (on the lower end of the range) for the violation of ADMC Program

Rule 3212. Under ADMC Program Rule 3040, it is the personal responsibility of each Covered Person to (i) be knowledgeable of and comply with the Protocol, and (ii) inform all personnel in any way with the care, treatment, training, or racing of his or her Covered Horses of their respective obligations under the Protocol. Under this Rule, Covered Persons are also required to adequately supervise all personnel involved in any way with the care, treatment, training, or racing of his or her Covered Horses, including by (i) clearly communicating that compliance with the Protocol is a condition of employment, (ii) creating and maintaining systems to ensure that such personnel comply with the Protocol, and (iii) adequately monitoring and overseeing the services provided by such personnel.

As to the objective element of Fault, Mr. Reid made a reasonable delegation of responsibilities to Ms. Martinez. However, he provided no supervision to his personnel and had no safeguards in place to prevent contamination. He admitted that he did not issue an order or directive against urinating in stalls and did not advise Ms. Martinez of the ADMC Program and its requirements. In addition, Mr. Reid did not adequately monitor or oversee Ms. Martinez's activity in the stalls.

As to the subjective element of Fault, the following mitigating factors are present in this case which allow for a reduction of the period of Ineligibility for Mr. Reid: (1) Ms. Martinez has worked for Mr. Reid for 30 years without an incident; (2) Mr. Reid admitted to heavily relying on Ms. Martinez, due to his physical condition and age, and, given that she has worked with Mr. Reid for 30 years without incident, this would suggest his reliance was reasonable; (3) the AAF arose from Ms. Martinez urinating on hay (as opposed to intentional administration); (4) the Banned Substance involved was a necessary medication legally and currently prescribed to Ms. Martinez; and (5) Mr. Reid was not actually aware Ms. Martinez was using medication which was a Banned Substance.

In light of these factors, Mr. Reid's period of Ineligibility will be four (4) months. ADMC Program Rule 3223 requires the imposition of a fine when a violation of ADMC Program Rule 3212 has been established. HIWU believes, given his Admission and Acceptance of Consequences, that a fine of \$4,125 is appropriate in this case. In addition, pursuant to ADMC Program Rule 3221, there will be Disqualification of the results that Maligator obtained on June 25, 2023 and July 16, 2023, with resulting Consequences of Disqualification of results including forfeiture of all purses and other compensation, prizes, trophies, points, and rankings and repayment or surrender (as applicable) to the Race Organizer, and Public Disclosure in accordance with ADMC Program Rule 3620.¹

**THE HORSERACING INTEGRITY & WELFARE UNIT
NOVEMBER 10, 2023**

¹ Maligator was also subject to a period of Ineligibility of 60 days, beginning on July 20, 2023, with reinstatement conditioned on a Negative Finding from a Re-Entry Test for all Banned Substances. That Re-Entry Test has already been passed, and Maligator is currently eligible to race.