

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Lina M. Khan, Chair**  
                                 **Rebecca Kelly Slaughter**

and reliability of the testing procedures at two of the three laboratories that analyzed Heaven and Earth's blood and urine samples. The arbitrator determined that the appropriate sanctions for the violation should be (1) a two-year period of BDC TT06 ( an)1v amamaDe (i)e (i)e 6 (At(nd ur)n-1 (t)-2 -2 Ji)-2

ALJ rejected that argument as not having been properly presented before the arbitrator. Even assuming that the argument had been raised, the ALJ rejected any claim of procedural irregularity because, again, Mr. Wong offered no evidence that it affected the outcome.

Finally, the ALJ noted that Mr. Wong did “not challenge the validity of the sanctions independently of his challenge to the analytical findings upon which the finding of liability was based,” and that thus there was “no basis presented by [Mr. Wong] to support a conclusion that the resulting sanctions were ‘arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.’” Mr. Wong now petitions the Commission for review of the ALJ’s decision.<sup>2</sup>

### Mr. Wong’s Application for Review and the Authority’s Response

The Act gives the Commission discretion to grant or deny an aggrieved person’s petition for review of an adverse ALJ decision. 15 U.S.C. § 3058(c)(2)(C)(i). The Act provides:

In determining whether to grant such an application for review, the Commission shall consider whether the application makes a reasonable showing that—

- (I) a prejudicial error was committed in the conduct of the proceeding; or
- (II) the decision involved—
  - (aa) an erroneous application of the anti-doping an b ( c)4 (onduc))-2 (t)-2 (e)c 0 Tw 54 L

the Arbitrator’s Decision and affirmed by the ALJ’s decision.”

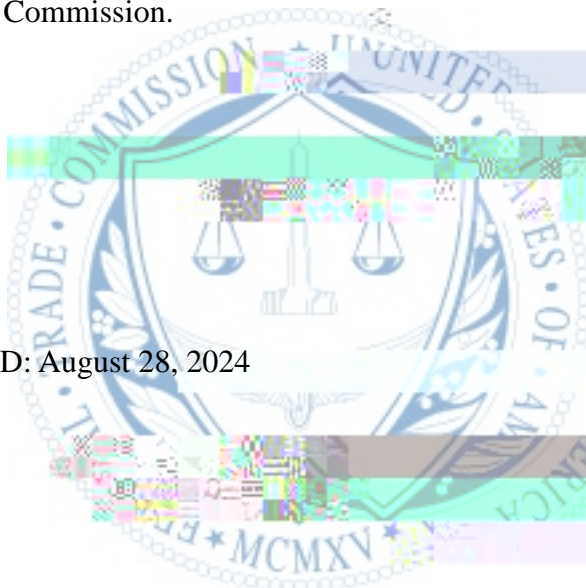
Commission Decision

Having reviewed the entire record in this proceeding, and having considered the applicable standard of review, we conclude that Mr. Wong has failed to demonstrate that Commission review of the ALJ’s decision is warranted. Mr. Wong has not made a reasonable showing that a prejudicial error occurred in the conduct of the proceeding before the ALJ. Nor has he made a reasonable showing that the ALJ erred in his application of the Authority’s Rules.

We take particular note of Mr. Wong’s assertions regarding Rule 6315(b)’s requirement that at least two scientists conduct an “independent review” of all AAFs before a test result is reported. According to Mr. Wong, Rule 6315(b) required University of Illinois at Chicago lab Director Heffron to take no part in the review of the B sample because Heffron had already been involved in the initial testing of that sample. But even if we assume that Mr. Wong’s reading of Rule 6315(b) is correct, we see no reason to disturb the ALJ’s conclusions on this issue. Most important, Mr. Wong has not shown that his preferred version of adherence to the “independent review” requirement – which would have required that Heffron take no part in the review of the B sample because he was involved in the initial test – would have led to any different outcome in the testing and review process, particularly given that multiple tests by unrelated labs all yielded AAFs. *See* ADMC Rule 3122(c)-(d).

In sum, Mr. Wong has failed to show that the ALJ’s decision was an exercise of discretion or a decision of law or policy warranting Commission review. Moreover, even if we were to assume that it was error for Heffron to be involved in both the initial testing and the review of the B sample, the absence of any claimed – much less demonstrable – effect of such an error on the unambiguous test results in this case would make the matter an unsuitable subject for Commission review. Accordingly, the Commission DENIES Mr. Wong’s petition for review.

By the Commission.



SEAL:  
ISSUED: August 28, 2024

April J. Tabor  
Secretary