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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF SAN DIEGO

11 JERRY HOLLENDORFER,

12 Petitioner,

13 v.

14 CALIFORNIA HORSE RACING BOARD,

15 Respondent.

CASE NO. 37-2020-00016369-CU-WM-CTL

**PETITIONER JERRY HOLLENDORFER'S  
REPLY TO OPPOSITION TO PETITION FOR  
WRIT OF MANDATE PURSUANT TO CODE  
OF CIVIL PROCEDURE §1085**

[IMAGED FILE]

FILED: MAY 28, 2020

DATE: OCTOBER 7, 2022

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JUDGE: HON. RONALD FRAZIER

DEPT.: C-65

1 I. INTRODUCTION

2 Petitioner’s *Code of Civ. Proc. §1085* claims arise from Respondent’s failure to comply with its  
3 duties under the law as such duties are set forth in statute, regulations, and as determined/clarified by  
4 judicial precedent.

5 Respondent’s Opposition misconstrues Petitioner’s requests as only seeking to compel “the CHRB  
6 hold a hearing under Business and Professions Code section 19573.” The damage to Petitioner has already  
7 been done, and a hearing years later cannot remedy that damage.

8 Three and a half years have passed since Petitioner sought such relief from Respondent. His  
9 business is lost; his livelihood gone. Respondent’s failure to timely fulfil its statutorily mandated  
10 responsibilities deprived Petitioner of the due process and equal protection guaranteed him under the U.S.  
11 and California Constitutions as a licensee of the CHRB having vested fundamental property interests in  
12 that license. Respondent’s acts and omissions both ignored and undermined Petitioner’s common law  
13 right to Fair Procedure. Respondent encouraged and enabled the racing associations it licensed to  
14 unlawfully deprive Petitioner of his common law and constitutionally protected rights, of the ability to  
15 engage in his longstanding occupation and licensed profession, of economic interests, and of vested  
16 property interests without substantive or procedural protections or review.

17 Those acts and/or omissions exceeded Respondent’s authority under the law.

18 The California Legislature authorized and required Respondent to adopt, administer, and enforce  
19 regulations that are consistent with the law. *Bus. & Prof. §19562, Fipke v. Cal. Horse Racing Bd. (2020)*  
20 *55 Cal.App.5th 505, 510.*

21 In its Opposition, Respondent again admits and concedes that its staff determined that it was LATC  
22 that refused/denied Petitioner’s valid September 2019 race entry, not the CHRB’s Board of Stewards. It  
23 made that determination when controlling CHRB Rules mandated that only the Stewards could deny or  
24 refuse a valid race entry. The controlling Rules were never suspended, nor otherwise made inoperable  
25 nor inapplicable. Notwithstanding Respondent’s attempts to rationalize its decision to ignore LATC’s  
26 Rule violations, Respondent’s conduct exceeded its authority under the law and violated public policy.

27 Respondent’s legal assertions – then and now – are without merit.

28 Neither DMTC nor LATC could privately acquire the right to refuse valid race entries via the

1 language of a Stall Application or RMA. Race meet conditions established by contract or independently  
2 by a racing association that conflict or are otherwise inconsistent with enforceable CHRB Rules are is  
3 expressly prohibited by regulation and public policy. At all relevant times, Respondent was, or should  
4 have been, fully aware that any such conflicting contractual or unilaterally imposed condition was  
5 superseded CHRB Rules 1402 (Controlling Authority), 1437 (Conditions of Race Meetings) and 2045  
6 (Prohibited Provisions of Horsemen’s Agreements).

7 Respondent’s rationalization further conflicts with specific judicial guidance previously given the  
8 CHRB; specifically, mandating that it not ignore the application of valid CHRB Rules in favor of racing  
9 association conditions. *De La Torre v. Cal. Horse Racing Bd.* (2017) 7 Cal.App.5<sup>th</sup> 1058; and *De La Torre*  
10 *v. Cal. Horse Racing Bd. et al.* (Super. Ct. Los Angeles County, 2016, No. BS154412) (Ex.  
11 63). Respondent is also collaterally estopped from ignoring prior judicial ruling against its interpretation  
12 of specific Rules it elects not to challenge via appeal, including CHRB Rule 1989(b). *Kriple v. Cal. Horse*  
13 *Racing Bd.* (Sup.Ct. Orange, 2020, No. 30-2019-01056627-CU-WM-CJC) (Ex. 62)

14 *Bus. & Prof. Code §19572* authorizes the CHRB, and only the CHRB, to exercise discretion in  
15 determining whether the presence of an individual in a racing inclosure is “inimical to the interests of the  
16 state or of legitimate horse racing,” subject to that individual’s rights under section 19573, and the U.S.  
17 and State Constitutions. The Legislature did not authorize Respondent to delegate such authority to any  
18 other individual, entity, or licensee. Pursuant *Bus. & Prof. Code §19440(b)*, the Legislature authorized  
19 the CHRB to delegate only to its Board of Stewards those “powers and duties that are necessary to carry  
20 out fully and effectuate the purposes of” the Horse Racing Law.

## 21 II. STANDARD OF REVIEW

22 An agency’s discretionary decisions are reviewed for “abuse of discretion,” which impose a test  
23 of the reasonableness of the agency action. *Code Civ. Proc. §1085*; Asimow et al., Cal Practice Guide:  
24 Admin. Law (The Rutter Group 2021) ¶17:631.

## 25 III. THE COURT SHOULD ISSUE A WRIT OF MANDAMUS

26 A Writ of Mandamus is a proper remedy to compel an agency to exercise its discretion when  
27 legally obligated to do so. *Hollman v. Warren* (1948) 32 Cal.2d 351, 354-356. It is also the proper remedy  
28 to challenge agency discretionary action as an abuse of discretion. *Saleeby v. State Bar of Cal.* (1985) 39

1 Cal.3d 547, 562-563. “That mandate will lie whenever an administrative board has abused its discretion  
2 is a rule so well established as to be beyond question.” *Manjares v. Newton* (1966) 64 Cal.2d 365, 370.

3 Petitioner requests this Court Issue a Writ of Mandamus that Respondent abused its discretion in  
4 the investigation of Petitioner’s complaints and by failing to immediately conduct a hearing into the  
5 exclusion of Petitioner from DMTC and LATC/PRA, as well as the blanket refusal of Petitioner’s valid  
6 race entries by these racing associations.

7 Petitioner further requests that this Court set a jury trial to determine the damage that Petitioner  
8 has suffered as a result of Respondent’s abuse of discretion and/or failure to fulfil its obligations under  
9 the law, as remand alone cannot remedy the extensive and irreparable damage Petitioner has suffered.

10 **A. Respondent Abused Its Discretion by Permitting DMTC to Usurp Respondent’s Sole**  
11 **Authority to License Trainers**

12 The United States Supreme Court has determined that a licensed trainer has a vested fundamental  
13 interest in his/her right to engage in their licensed occupation. Consequently, no state agency may –  
14 directly or indirectly – deprive that licensee of any property or personal interest without first affording the  
15 licensee due process and equal protection under the Constitution. *Barry v. Barchi* (1979) 443 U.S. 55.  
16 The California Supreme Court has similarly determined that no state agency may interfere – directly or  
17 indirectly – with an individual’s vested fundamental rights to practice his or her profession without similar  
18 constitutional protections. *Bixby v. Pierno* (1971) 4 Cal.3d 130. Respondents do not disagree.

19 Respondent is exclusively statutorily authorized to license horse racing professionals and to  
20 adjudicate controversies arising from the rules related to horse racing and the individuals it licenses to  
21 participate in a horse racing meets in the State. *Bus. & Prof. Code §19440*. Respondent may only delegate  
22 to its Board of Stewards those powers and duties necessary to effectuate the Horse Racing Law. *Id.*

23 Despite this mandate, Respondents ceded its authority by permitting DMTC and LATC/PRA to  
24 exclude Petitioner and/or to refuse his valid race entries. Respondent effectively delegated its licensing  
25 and regulatory authority to these licensees holding quasi-monopolies.

26 1. **DMTC’s Blanket Refusal of All Petitioner’s Race Entries**

27 By July 5, 2019, DMTC usurped Respondent’s authority, both by excluding and precluding  
28 Petitioner from engaging in his licensed profession and in refusing any valid race entry he sought to submit

1 at the 2019 Summer meet. (Ex. 37, JH02133) On July 23, 2019, Petitioner notified Respondent that he  
2 requested an immediate hearing regarding DMTC's actions, citing *Bus. & Prof. Code §§19420, 19440,*  
3 *19573.* (Ex. 16, JH02014) Overnight, Respondent's legal counsel determined that although Petitioner was  
4 excluded by DMTC pursuant to Rule 1989, Respondent would not conduct a hearing. Counsel's letter of  
5 July 24, 2019, represented that "the Board will not grant a hearing on the basis of an association's action  
6 under Rule 1989." (Ex. 17, JH02022) After initially declining to investigate or hear Petitioner's  
7 complaint, Respondent later began an investigation that concluded in October 2019. Despite confirming  
8 that DMTC had in fact refused to facilitate Petitioner's valid race entries, Respondents continued to assert  
9 that DMTC had not violated any CHRB Rule. (Ex. 37, JH02096)

10 The authority to refuse entries is expressly reserved to the CHRB's Stewards however. CHRB  
11 Rule 1580. Racing secretaries, which are employed by the racetrack, may only establish conditions for a  
12 race and the procedures for *acceptance* of the entries. CHRB Rule 1581.

13 Nonetheless, Respondent concluded that the Stall Application and/or RMA somehow vested in  
14 DMTC the authority that only the Stewards possess. (Ex. 37, JH02096). This finding was an abuse of  
15 discretion as it conflicted with CHRB Rules expressly providing otherwise.

16 At most, the Stall Application is a contract of adhesion between a trainer and the racing association.  
17 DMTC and Petitioner cannot contract around the CHRB's regulations to grant DMTC authority vested  
18 solely in the Stewards. Moreover, the Stall Application is of little import here as DMTC refused  
19 Petitioner's application. (Ex. 37, JH02133). Under basic contract law, there is no contract when there is  
20 no offer and acceptance. Petitioner submitted his application which was rejected by DMTC.

21 Similarly, the RMA is a contract between DMTC and CTT, which Respondent requires as a  
22 mandatory condition of licensure for a race meet. (Ex. 37, JH02145) Again, by private contract, CTT  
23 cannot vest in DMTC the authority to refuse entries. Under CHRB Rules, only the Stewards have such  
24 authority. CHRB Rule 2045 prohibits any RMA provisions that "conflict with the Horse Racing Law, the  
25 rules of the Board, or usurp the authority of the board..." *See also Gustavo de la Torre, supra,* (racing  
26 association agreements with trainers may not conflict with CHRB Rules.) (Ex. 63, JH02325)

27 Respondent's finding that there was no Rule violation because of the RMA and Stall Application  
28 was fundamentally flawed, inconsistent with its own regulations, prior controlling judicial determinations,

1 and an abuse of discretion. This Court should therefore find that permitting the Respondent to assert that  
2 racing associations may contractually usurp the authority of the Stewards to refuse entries is  
3 impermissible, contrary to law, and an abuse of its discretion.

#### 4 2. LATC's Refusal of Petitioner's Entry

5 On September 26, 2019, Petitioner submitted a valid race entry to LATC. The entry was refused  
6 by LATC, without any notification to or participation by the Stewards. (Ex. 38, JH02222) Respondent's  
7 investigation confirmed the factual basis of Petitioner's complaint: that his entry was received by LATC  
8 but later refused without the Stewards' notification or involvement. (Ex. 38, JH02222-2223) Petitioner  
9 had timely submitted a request for a hearing to the CHRB based upon LATC's unlawful refusal of his  
10 valid entry. (Ex. 28, JH02056-02059)

11 Again, notwithstanding the undisputed facts, Respondent improperly determined that LATC did  
12 not violate any CHRB Rule, citing provisions of LATC's Stall Application and RMA that purportedly  
13 authorized it to do so. (Ex. 38, JH02225) As discussed above, neither the Stall Application nor the RMA  
14 can grant authority to LATC that neither Petitioner nor CTT possesses. The reliance upon either document  
15 to somehow vest the Stewards' authority in LATC is contrary to CHRB Rule 2045, and public policy.

#### 16 3. Respondent Cannot Selectively Determine Which Rules to Enforce

17 A racing association cannot adopt a house rule or condition that conflicts with any CHRB Rule.  
18 *Gustavo De La Torre, supra.* (Ex. 63, JH02310) In *Gustavo* a racing association attempted to impose drug  
19 testing conditions that were stricter than those adopted by the CHRB. The CHRB Board authorized this,  
20 while not adopting those conditions as a Rule. The Los Angeles Superior Court, on §1085 writ,  
21 determined that the CHRB had improperly delegated to the racing association the authority to create a  
22 conflicting rule, and the CHRB Rules must control.

23 Despite this prior determination, Respondent necessarily concedes that it is delegating to the racing  
24 associations the ability to contract around valid CHRB Rules related to the acceptance of entries. This is  
25 simply not permitted by any statute or Rule. Rather, the CHRB is by law charged with enforcing its Rules  
26 – all the Rules.

27 Without properly and formally suspending a Rule pursuant to CHRB Rule 1406, neither  
28 Respondent, nor its investigators, may effectively suspend or ignore the application of a valid Rule. To

1 do so would be a patent abuse of discretion.

2 4. Appropriate Consideration of Trial Court Decisions

3 Respondent incorrectly asserts that Petitioner asks the Court use trial court decisions as precedent.  
4 The Court may certainly consider as persuasive authority the rulings and orders of trial court decisions.

5 Moreover, Respondent may not lawfully ignore prior court orders and determinations, particularly  
6 where it was a party to the action and the issue has already been litigated.

7 “Collateral estoppel precludes relitigation of issues argued and decided in prior proceedings.  
8 *Lucido v. Sup.Ct.* (1990) 51 Cal.3d 335, 341, citing *Teitelbaum Furs, Inc. v. Dominion Ins. Co., Ltd.* (1962)  
9 58 Cal.2d 601, 604. The doctrine applies when: 1) issue sought from relitigation was decided in a former  
10 proceeding; 2) the issue was actually litigated; 3) the issue was decided in the former proceeding; 4) the  
11 decision is final and on the merits; and 5) the party against whom preclusion is sought must be the same.  
12 *Id* (citations omitted).

13 Where the CHRБ has previously been instructed by a trial court order as to a specific interpretation  
14 of its Rules, it cannot simply choose to later ignore those instructions. In both trial court decisions cited  
15 by Petitioner (*Gustavo de la Torre* [Ex. 63] and *Kriple* [Ex. 62]) the CHRБ was a party, and the issues are  
16 relevant to these proceedings. The CHRБ is estopped from relitigating the legal issues that were  
17 previously decided by the trial courts, which the CHRБ chose not to appeal.

18 5. Respondent Impermissibly Delegated Its Authority to Racing Associations

19 As described above and more fully in Petitioner’s opening brief, LATC/PRA and DMTC told  
20 Respondent’s investigator that they had the authority to deny Petitioner the ability to stable, train, and race  
21 at their racetracks, purportedly because of provisions in their RMAs and Stall Application. It was an abuse  
22 of discretion for Respondent to accept these assertions, particularly when there are conflicting CHRБ  
23 Rules (e.g., Rule 2045 – Prohibited Provisions of Horsemen’s Agreements).

24 Respondent’s error in doing so, illustrates the importance of *Bus. & Prof. Code §19431*, which  
25 mandates that “[a]t least four members of the board shall concur in the taking of any official action or in  
26 the exercise of any of the board’s duties, powers, or functions.”

27 The purported authority of CHRБ counsel and investigators to make sweeping decisions, which  
28 denied Petitioner a hearing – timely or otherwise – does not constitute a valid administrative decision, nor

1 is it a lawful exercise of the Board’s authority, duties, or and powers. *Morton v. Hollywood Park, Inc.*  
2 (1977) 73 Cal.App.3d at 248, 251.

3 In the context of horse racing, the court in *Morton*, determined that absent a vote of the board,  
4 counsel’s determinations are nothing more than informal “opinions.” *Morton* also concluded that  
5 challenges by §1085 are appropriate as the law “anticipates an arbitrary or illegal refusal of a duly  
6 constituted board to hold a hearing. The section authorizes resort to the writ of mandate “to compel the  
7 performance of an act which the law specifically enjoins.” *Id.*, at 254.

8 Respondents would have this Court accept – as valid determinative regulatory actions – factual  
9 and legal determinations of an inexperienced CHRB investigator, without the knowledge or concurrence  
10 of the CHRB Board, far less the majority approval, of licensing and regulatory issues; i.e., that a racing  
11 association may usurp Respondent’s exclusive authority to accept entries and/or license trainers, and that  
12 any aggrieved trainer would thereafter have no recourse to challenge or have reviewed such actions by the  
13 CHRB or any superior court.

14 At a minimum, such a “regulatory” scheme fails to comport with statutory requirements, and as  
15 discussed below, the required due process and equal protection rights of a licensed trainer.

16 **B. Respondent Cannot Avoid Its Obligations to Afford Petitioner Due Process**

17 Respondent may not hinder a licensee’s vested right to practice their profession, without due  
18 process and equal protection. *Barry, supra*, 443 U.S. 55; *Bixby, supra*, 4 Cal.3d 130; *Dare v. Bd. of*  
19 *Medical Examiners* (1943) 21 Cal.2d 790; *Sandstrom v. Cal. Horse Racing Bd.* (1948) 31 Cal.2d 401.

20 The CHRB acknowledged on the day that Petitioner that was excluded from LATC on June 22,  
21 2019, that it would “have to abide by due process laws.” (Ex. 52, JH02280) CHRB Chair confirmed this  
22 to LATC executives within hours of LATC banning Petitioner, while succeeding racing association, Los  
23 Alamitos, refused to engage in the obvious “scapegoating” of Petitioner.

24 By July 5, 2019, DMTC usurped Respondent’s authority and extended LATC’s ban of Petitioner  
25 thereby excluding him from stabling and entering any horse at its race meet. (Ex. 37, JH02133). On July  
26 23, 2019, Petitioner notified Respondent that he requested a hearing regarding his exclusion from DMTC,  
27 citing *Bus. & Prof. Code §§19420, 19440, 19573*. (Ex. 16, JH02014) Less than 24 hours later, Respondent  
28 had purportedly determined that, notwithstanding *Bus. & Prof. Code §19573* and the referenced *Morton*



1 and *Greenberg* cases, it would not conduct a hearing, citing only CHRB Rule 1989 as justification. (Ex.  
2 17, JH02022) Respondent’s letter confirmed that the authority upon which it relied to validate Petitioner’s  
3 exclusion was Rule 1989. Specifically, Respondent concluded, “the Board will not grant a hearing on the  
4 basis of an association’s action under Rule 1989.” (Ex. 17, JH02022)

5 Respondent’s Opposition initially contends that Petitioner was not excluded under Rules 1980 or  
6 1981, and thus not entitled to a hearing. Petitioner agrees that DMTC did not exclude him either rule.

7 Respondent next asserts Petitioner was not excluded under Rule 1989, which directly contradicts  
8 Respondent’s representation to Petitioner in the July 24, 2019 letter denying his hearing request. (Ex. 17)  
9 Notwithstanding Respondent’s most recent assertion, once it had concluded and asserted that Petitioner  
10 was in fact excluded by virtue of Rule 1989 – as of July 24, 2019 – Petitioner was entitled to an immediate  
11 hearing at the next CHRB meeting, if not before. *Bus. & Prof. Code §19573* (board determines if  
12 exclusion under CHRB Rule was proper).

13 Respondent does not disagree that due process is required, but it seeks to avoid the obligation to  
14 have provided such by impermissibly delegating to racing associations the ability to deny to licensed  
15 trainers their ability to engage in their licensed profession. Respondent lawfully cannot do so.

16 In *Kriple, supra*, the Orange County Superior Court admonished Respondent that in expanding  
17 Rule 1989 “to allow the [racetrack] to remove anyone at its discretion, the Board clearly exceeded its  
18 statutory rule-making authority.” Further, the Court found that Respondent has an obligation to implement  
19 and enforce the laws within its jurisdiction. “When a licensed trainer who seeks to exercise his rights  
20 under his license is excluded from a licensed race course, the jurisdiction of the Board is necessarily  
21 invoked.” *Id.* As discussed herein, *Kriple* is persuasive and binding trial court authority, and the CHRB  
22 is estopped from relitigating a legal issue that was previously litigated.

23 Again the “regulatory” scheme advocated by Respondent fails to afford Petitioner his  
24 constitutionally protected rights to due process, equal protection, and fair procedure. As a licensee engaged  
25 in his profession at a regulated facility, only Respondent has the authority to deny Petitioner the ability to  
26 practice his profession. Respondent must act in accord with and abide by due process and equal protection.  
27 There is no assertion by Respondents that it attempted to comply with any aspect of either.

1 Respondent seeks to avoid its due process obligations by impermissibly and effectively delegating  
2 licensing authority to racing associations, where arguably only Fair Procedure may apply, despite the clear  
3 mandates from the courts that when a license trainer is excluded the jurisdiction of the Board is necessarily  
4 invoked, and due process is required. In this instance, the Board sought to avoid involvement and  
5 intentionally took no official action, knowing its decisions would cause petitioner significant detriment.

6 An ‘investigation’ alone – much less by an inexperienced investigator who had neither read the  
7 Horse Racing Law nor the CHRB Rule Book – does not constitute a valid administrative effort to accord  
8 a licensee due process. Respondent cannot use the legally incorrect findings of an uninformed  
9 investigator, without any Board oversight, to assert that it acted in accordance with the regulatory and  
10 constitutional framework required.

11 Intentionally or negligently, Respondent’s acts or omissions had the effect of impermissibly and  
12 effectively delegating to racing association the ability to license trainers. Respondent’s decision not to  
13 conduct a timely hearing of any of Petitioner’s complaints constituted both abuses of discretion and  
14 failures to fulfil its obligations under the law. Respondent deprived Petitioner of constitutionally  
15 mandated requirements by not of affording him due process, equal protection or fair procedure despite his  
16 status as a licensee having a vested fundamental property interest in his CHRB trainer’s license. This is a  
17 clear abuse of its discretion and dereliction of duties under the law.

18 **C. Evidence of Conflicts of Interest and Bias Tainted Respondent’s Actions**

19 Due process violations occur when there is a biased decision maker. *Woody’s Group, Inc. v. City*  
20 *of Newport Beach* (2015) 233 Cal.App.4<sup>th</sup> 1012, 1021 (city council member adjudicating land use permits  
21 must be unbiased).

22 Respondent self-servingly claims that the well-document and admitted bias of its Chair and Vice-  
23 Chair had no role in the decision of its senior most staff – including legal counsel – to ignore controlling  
24 CHRB Rules, as described above, all to the detriment of Petitioner. This assertion is belied by evidence  
25 that from the outset those Board members intervened to suggest to Respondent’s staff the desired outcome.

26 Without the opening of an investigation, the filing of a complaint, the scheduling of a hearing, or  
27 any form of notice to Petitioner – formal or informal, CHRB Chair Winner and Vice Chair Auerbach had  
28 *in advance of the ban imposed by LATC* discussed and pre-determined that “in the long run that [it] is a

1 good idea ... [Petitioner's] horses need to be disseminated among other trainers who have no connection  
2 to [Petitioner]. (Ex. 52, JH02283) Copied on this email correspondence was CHRB attorney, Mr. Brodnik.  
3 Vice Chair Auerbach also sent an email on June 22, 2019, received by Mr. Brodnik, that Petitioner's ban  
4 by LATC was "a good way of getting a positive spin on a negative story [the ongoing fatalities at Santa  
5 Anita]." (Ex. 55, JH02287)

6 Mr. Brodnik, in receipt of multiple communications from the Chair and Vice Chair related to  
7 Petitioner, was the individual that determined, without investigation, within 24 hours of having received  
8 Petitioner's request for the hearing mandated by statute that "the Board will not grant a hearing on the  
9 basis of an association's action under Rule 1989." (Ex. 17)

10 Particularly given the brevity of his July 24, 2019 letter, it remains a mystery how Mr. Brodnik,  
11 on behalf of Respondent, ascertained these factual and legal conclusions within only hours of Petitioner's  
12 request. Clearly Mr. Brodnik knew of the Chair's and Vice-Chair's personal opinions on the matter and  
13 concluded without investigation declination of Petitioner's request was consistent with those opinions and  
14 the pre-determined outcome sought by leadership, his bosses.

15 The evidence establishes that Respondent's then Chair and Vice-Chair sought to and did influence  
16 and taint Respondent's actions toward Petitioner in favor of the racing association management with  
17 whom they maintained significant undisclosed business and financial relationships, acknowledged by  
18 Respondent's former Executive Director as perceived apparent conflicts of interest. (Ex. 67, JH02422-  
19 JH02457; Exs. 42, 43, 46, 48, 59, 60, 61)

#### 20 IV. CONCLUSION

21 Petitioner respectfully request this Court issue a Writ of Mandate and promptly schedule a jury  
22 trial as to damages. Nearly three and a half years have passed since Respondent's acts and omissions  
23 devastated his business. No proper investigation and hearing can restore the irreparable damage that has  
24 been caused by the regulatory failures of Respondent.

25 Dated: September 28, 2022

Respectfully submitted,

couto&associates

  
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Drew J. Couto, Esq.  
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