

**BEFORE THE CALIFORNIA HORSE RACING BOARD**

**STATE OF CALIFORNIA**

In the Matter of:

**FITNESS FOR LICENSURE**

**HECTOR ROMERO**  
**Appellant**

Case No. SAC 17-0009

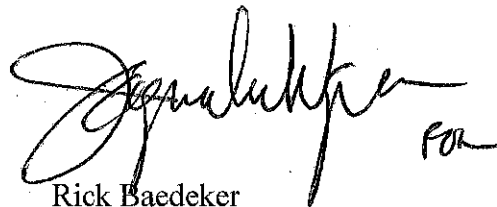
**DECISION**

The attached Proposed Decision is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on June 26, 2017.

IT IS SO ORDERED ON June 22, 2017.

CALIFORNIA HORSE RACING BOARD  
George Krikorian, 1<sup>st</sup> Vice-Chairman

A handwritten signature in black ink, appearing to read "Rick Baedeker", with a small "for" written below it.

Rick Baedeker  
Executive Director

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8 **BEFORE THE CALIFORNIA HORSE RACING BOARD**  
9 **STATE OF CALIFORNIA**

10 <b>In the Matter of:</b>	)	Case No.: SAC 17-0009
11 <b>FITNESS FOR LICENSURE</b>	)	<b>PROPOSED DECISION RE: HECTOR</b>
12 <b>HECTOR ROMERO</b>	)	
13 <b>Previous CHRB License Nos. 273327</b>	)	<b>LICENSURE</b>
14 <b>and 276787</b>	)	
15 <b>Appellant.</b>	)	Hearing Date: April 21, 2017 Time: 11:00 a.m.

16 **I. INTRODUCTION**

17 This matter came for hearing on April 21, 2017 at 11:05 a.m. at Los Alamitos Race  
18 Course located in Los Alamitos, California 90720. Appellant Hector Romero ("Appellant")  
19 was present and represented by Roger Licht, Esquire. The California Horse Racing Board  
20 ("CHRB") was present and represented by Phillip J. Laird, Esquire.

21 Pursuant to California Horse Racing Board Rule 1414, Hearing Officer, Patrick J. Kane  
22 ("Officer"), presided over this matter. Jacqueline Denlinger recorded all testimony presented  
23 during the instant proceeding.

24 The instant matter's record closed at the conclusion of the proceedings on April 21, 2017  
25 at approximately 11:50 a.m.

26 **II. EXHIBITS ADMITTED INTO EVIDENCE**

27 **A. Exhibits the CHRB Entered into Evidence.**

28 The CHRB entered the following exhibits into evidence:

- 1 Exhibit "1" Request for Hearing Dated April 18, 2016;
- 2 Exhibit "2" The Notice of Refusal of License Dated April 2, 2016;
- 3 Exhibit "3" The August 13, 2011 Board of Stewards' Official Ruling, Ruling  
4 No. 18;
- 5 Exhibit "4" The Stipulated Agreement Between the CHRB and Hector  
6 Romero July 15, 2010;
- 7 Exhibit "5" The June 6, 2010 Board of Stewards' Official Ruling, Ruling No.  
8 90 and the June 13, 2010 Board of Stewards' Statement of  
9 Decision, Case No. 09GG313;
- 10 Exhibit "6" The June 11, 2009 Order Following Reconsideration of Decision  
11 Adopting Proposed Decision with Clarification of Proposed  
12 Sanction, Case No. SAC 08-0029;
- 13 Exhibit "7" The August 19, 2008 Decision Adopting Proposed Decision with  
14 Clarification of Proposed Sanction, Case No. SAC 08-0029;
- 15 Exhibit "8" The June 13, 2008 Board of Stewards' Official Ruling, Ruling  
16 No. 22; and
- 17 Exhibit "9" The May 29, 2005 Pacific Racing Association's Official Ruling,  
18 Ruling No. 013.

19 **B. Exhibits Appellant Entered into Evidence.**

20 Appellant entered the following exhibits into evidence:

- 21 Exhibit "10" Hector Romero's Appellate Brief and Accompanying Exhibits,  
22 Case No. 17-0009;
- 23 Exhibit "11" Correspondence from the County of Solano Probation  
24 Department; and
- 25 Exhibit "12" Correspondence from the Templo Calvario De Perris Asamblea  
26 de Dios.

27 **III. LIST OF TESTIFYING WITNESSES**

28 **A. Witnesses Testifying on Behalf of Appellant.**

1 Appellant called the following the witnesses:

- 2 • Hector Romero.

3 **B. Witnesses Testifying on Behalf of the CHRB.**

4 The CHRB did not call any witnesses during the instant proceeding.

5 **IV. FACTUAL FINDINGS**

6 ~~After analyzing and admitting all exhibits into evidence, admitting the testimony~~  
7 provided during the instant Hearing, this Officer makes the following findings of fact:

8 **A. Appellant's Initial Jockey Licensure and 2005 License Revocation.**

9 **I.**

10 On or about January 30, 2002, Appellant received an apprentice jockey's license from  
11 the CHRB. (Ex. 7 at p. 1.) Appellant's apprentice jockey's license expired on July 31, 2007.  
12 (Id.) Appellant's license history for 2002 and 2003 shows he received minor penalties arising  
13 from typical riding infractions. (Id. at p. 5.)

14 **II.**

15 In 2003, Appellant was involved in severe "spill" at the Sacramento State Fair in which  
16 Appellant sustained injuries. (Ex. 7 at p. 5.) Doctors diagnosed the injuries as career ending  
17 and feared Appellant could be paralyzed for the rest of his life. (Id.) Despite doctors'  
18 diagnosis, Appellant returned to riding in the Spring of 2004. (Id.) However, Appellant  
19 struggled to "get mounts" because several trainers believed Appellant was not riding to his  
20 ability due to the 2003 accident. (Id.)

21 **III.**

22 On May 29, 2005, Appellant's license was suspended due to failing to appear before the  
23 Golden Gate Fields' Board of Stewards to address charges alleging Appellant violated Cal.  
24 Code Regs. Tit. 4 § 1489(h). (Ex. 9.)

25 **B. Appellant's 2004, 2005, and 2006 Criminal Convictions.**

26 **IV.**

27 In 2004, Appellant was convicted for the following offenses: (1) possession of  
28 methamphetamine (felony); (2) being under the influence of a controlled substance

1 (misdemeanor); (3) driving under the influence of drugs with a prior conviction (misdemeanor);  
2 and (4) driving while on a suspended or revoked license (misdemeanor). (Ex. 7 at p. 2.)

3 V.

4 In 2005, Appellant was convicted for the following offenses: (1) possession of  
5 methamphetamine for sale (felony); (2) furnishing and transporting methamphetamine for sale  
6 (felony); ~~(3) using false identification (misdemeanor); and (4) violation of Appellant's~~  
7 probation. (Ex. 7 at p. 3.)

8 VI.

9 Moreover, in 2006, Appellant was convicted for the following offenses: (1)  
10 manufacturing methamphetamine (felony); (2) possession of a firearm (felony); (3) furnishing  
11 or transporting methamphetamine for sale (felony); (4) possession of methamphetamine for sale  
12 (felony); (5) possession of methamphetamine while in possession of a loaded firearm (felony)  
13 and (6) manufacture or possession of a firearm (felony). (Ex. 7 at p. 3.)

14 VII.

15 As a result of the above convictions, Appellant was sentenced to 365 days in jail and  
16 placed on formal probation for three (3) years. (Ex. 7 at p. 3.) However, Appellant only served  
17 eight (8) months of his sentence due to good behavior. (Id.) Appellant was released in June  
18 2007. (Id.)

19 **C. Appellant's 2008 and 2009 Applications for Licensure.**

20 VIII.

21 On June 14, 2008, Appellant presented an Application for License ("Application") to the  
22 CHRFB. (Ex. 7 at p. 1.) Appellant's Application included a criminal history information sheet  
23 that listed three convictions in Riverside County between November 17, 2004 and August 17,  
24 2006. (Ex. 7 at p. 2.)

25 IX.

26 On June 14, 2008, CHRFB investigator Anne Glasscock ("Glasscock") accepted and  
27 reviewed Appellant's Application. (Ex. 7 at p. 2.) After doing so, Glasscock issued a CHRFB  
28

1 "Notice of Refusal of License" stating that Appellant's Application was refused due to  
2 Appellant's convictions and the fact he currently was on felony drug conviction parole. (Id.)

3 **X.**

4 On June 14, 2008, Appellant timely appealed the CHRB's refusal of licensure. (Ex. 7 at  
5 p. 2.) Appellant's appeal, Case No. SAC 08-0029, was heard by Hearing Officer John  
6 Herbuveaux on July 18, 2008 (the "2008 Appeal"). (Ex. 7 at p. 1.) On July 30, 2008, Officer  
7 Herbuveaux issued a proposed decision deeming Appellant as eligible to apply for a one year  
8 conditional license as an exercise rider. (Ex. 7 at p. 9.) However, Appellant was required to  
9 enter into a testing agreement approved by the CHRB and regularly attend Winners Foundation  
10 meeting concerning the maintenance of his sobriety. (Id.) On August 19, 2008, the CHRB  
11 adopted Officer Herbuveaux's proposed decision with minor modifications. (Ex. 7.)

12 **XI.**

13 On June 11, 2009, the CHRB issued an "Order following Reconsideration of Decision  
14 Adopting Proposed Decision with Clarification of Proposed Sanction" (the "2008 Order"). (Ex.  
15 6.) Specifically, the 2008 Order deemed Appellant eligible to apply for a conditional jockey  
16 license subject to the following terms: (1) Appellant shall attend four (4) substance abuse  
17 meetings per week for at least two years; (2) Appellant shall submit to random urine and breath  
18 testing; and (3) Appellant shall not violate the terms and conditions of his probation. (Ex. 6.)

19 **XII.**

20 On June 11, 2009, Appellant applied for and was granted a conditional jockey's license  
21 valid for two years (the "2009 License"). (Ex. 5 at p. 2.)

22 **D. Appellant's License is Suspended Again.**

23 **XIII.**

24 On April 10, 2010, CHRB investigator Charles Smith filed Complaint No. 09GG313,  
25 against Appellant for violating Code Regs. Tit. 4 § 1485 and Code Regs. Tit. 4 § 1900. (Ex. 5  
26 at p. 3.) Specifically, the complaint alleges that Appellant was convicted for driving under the  
27 influence of alcohol on March 26, 2010. (Id.)

28 **XIV.**

1 On June 4, 2010, the Golden Gate Fields' Board of Stewards (the "Stewards") held a  
2 hearing concerning Complaint No. 09GG313. (Ex. 5 at p. 3.) After receiving both documentary  
3 and testimonial evidence during the June 4, 2010 hearing, the Stewards issued Ruling No. 90  
4 suspending Appellant for one hundred and twenty (120) days, from June 14, 2010 until October  
5 11, 2010, for violating the terms and conditions of the 2009 License (the "2010 Ruling"). (Ex.  
6 5.) The 2010 Ruling further stated that before reinstatement of the 2009 License, Appellant  
7 shall:

- 8 (1) [P]rovide proof of compliance with the court-ordered rehabilitation program;  
9 (2) comply with terms of his probation; (3) comply with the terms of his testing  
10 agreement with the CHRB; and (4) enter into a two-year contract with the  
11 Winners Foundation on October 11, 2010. (Ex. 5.)

11 **XV.**

12 On July 15, 2010, the CHRB and Appellant entered into a Stipulated Agreement  
13 reinstating Appellant's licensure subject to the CHRB's conditions of probation. (Ex. 4.)

14 **D. The 2011 Suspension and Subsequent Criminal Conviction.**

15 **XVI.**

16 One month after the CHRB approved his conditional jockey's license for an additional  
17 two years, Appellant failed to appear in front of the Sonoma County Board of Stewards  
18 ("Sonoma Stewards") on August 12, 2011 despite being ordered to do so. (Ex. 3 at p.3-4.)

19 **XVII.**

20 Accordingly, on August 13, 2011, the Sonoma Stewards unanimously issued Official  
21 Ruling No. 18 (the "2011 Ruling"). The 2011 Ruling made the following findings:

22 The conditional license of Jockey Hector Romero is hereby summarily suspended  
23 for the term of his license (July 31, 2013) for violation of California Horse Racing  
24 Board Rule 1485(a)(b)(c)(d) (license subject to conditions and agreements),  
25 California Horse Racing Board Rule 1547 (failure to appear), California Horse  
26 Racing Board Rule 1872 (failure to fulfill jockey agreements), and California  
27 Horse Racing Board Rule 1930 (obedience to security officers and public safety  
28 officers.) (Ex. 3 at p. 1.)

26 **XVIII.**

27 On September 25, 2011, Appellant was arrested in Solano County California for evading  
28 a police officer and for possession of stolen property (the "2011 convictions"). (Ex. 2 at p. 2.)

1 Appellant was later convicted of said crimes and sentenced to three (3) years and eight (8)  
2 months in prison. (Ex. 10, Informational Chrono.) Appellant entered the California Department  
3 of Corrections and Rehabilitation on April 14, 2014. (Id.) Appellant was subsequently released  
4 on October 5, 2015. (Id.) Appellant was placed on parole for a three (3) year period with a  
5 discharge date of October 5, 2018. (Ex. 11.)

6 ~~E. CHRBR Denies Appellant's 2016 License Application.~~

7 **XIX.**

8 On Saturday April 2, 2016, Appellant presented an Application for License  
9 ("Application") to the CHRBR office located at Golden Gate Fields in Albany, California. (Ex.  
10 2.) Appellant's Application included a criminal history information sheet listing the 2011  
11 criminal convictions. (Ex. 2.)

12 **XX.**

13 On April 2, 2016, CHRBR investigator Louis Quezada ("Quezada") accepted and  
14 reviewed Appellant's Application. (Ex. 2.) After doing so, Quezada issued a CHRBR Form 83  
15 "Notice of Refusal of License" stating that Appellant's Application was refused due to: (1)  
16 Appellant's conviction for a "crime punishable by imprisonment in the State or Federal prison,  
17 or conviction for a crime involving moral turpitude"; (2) making material misrepresentations or  
18 false statements to the Board or its agents in the Application due to only listing the 2011  
19 criminal convictions; and (3) unlawfully engaging in or having been convicted of possession,  
20 use or sale of a narcotic, dangerous drug, or marijuana." (Id.)

21 **XXI.**

22 Upon receiving the Notice of Refusal of License, Appellant appealed the CHRBR's denial  
23 of his Application. (Ex. 1.) On March 28, 2017, the CHRBR set this Appeal for hearing on April  
24 21, 2017 at Los Alamitos Race Course. (Hearing Transcript ("H.T.") at p. 1.)

25 **F. Appellant's Parole Discharge and Evidence of Rehabilitation.**

26 **XXII.**

27 On January 29, 2017, Appellant's parole was successfully discharged because Appellant  
28 complied with all terms and conditions of the parole. (Ex. 11.) Specifically, Appellant received



1 an early parole discharge because he: (1) complied with his probation reporting requirements;  
2 (2) completed all drug testing requirements; and (3) completed all required counseling as  
3 directed. (Id.)

4 **XXIII.**

5 Moreover, while serving his prison term, Appellant completed the following:

6 (1) ~~[T]he Mental Health Program~~; (2) ~~the Journey Program~~, which teaches  
7 participants to take responsibility for their lives, and their relationship with God  
8 and other people; (3) Alcoholics Anonymous; (4) Narcotics Anonymous; (5)  
9 Anger Management; (6) Employment Readiness Re-Entry Workshop; (7) the  
10 incarcerated inmate work program; and (8) the Christ centered self-help activities  
11 focusing on chemical dependency, and co-dependency anger and violence. (Ex.  
12 10.)

13 **XXIV.**

14 Further, since being released, Appellant enrolled at the Fairfield-Suisun Adult School in  
15 February 2017 to attempt to obtain his General Education Degree. (Ex. 10.)

16 **ISSUES ON APPEAL AND CONTROLLING LAW**

17 The issue before this Officer is whether Appellant shows he is fit for licensure and  
18 whether Appellant demonstrates “rehabilitation” in light of Appellant’s previous rule violations  
19 and criminal convictions.

20 When considering the denial of a license on the grounds that the applicant committed an  
21 act or has been convicted of a crime and the applicant’s rehabilitation and eligibility for  
22 licensure, the following should be considered:

23 (1) The nature and severity of the act(s) and/or offense(s), including its relation to  
24 horse racing or pari-mutuel wagering and the protection of the public; (2) the total  
25 criminal record, including evidence of any act(s) and/or offense(s) committed  
26 subsequent to the act(s) or offense(s) under consideration as grounds for denial,  
27 suspension or revocation which also could be considered grounds for denial,  
28 suspension, or revocation under Business and Professions Code sections 480 or  
490; (3) the time that has elapsed since commission of the act(s) or offense(s); (4)  
the extent to which the person seeking licensure or the licensee has complied with  
any terms of parole, probation, restitution or any other sanctions lawfully imposed  
against the person or licensee; (5) the credibility of the person seeking licensure  
or the licensee, and his or her acceptance of responsibility and remorse for the  
conduct; and (6) evidence, if any, of rehabilitation submitted by the person  
seeking licensure or by the licensee. (Cal. Code Regs. Tit. 4 § 1489.2.)

Appellant must demonstrate, by a preponderance of the evidence, that he meets the  
necessary licensure requirements. (See, Cal. Code Regs. Tit. 4 § 1764 [“The burden shall be on

1 the appellant to prove the facts necessary to sustain the appeal.”], Cal. Evid. Code § 115,  
2 *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784, *Owen v. Sands* (2009)  
3 176 Cal.App.4th 985, 989.)

4 “Preponderance of the evidence means evidence that has more convincing force than  
5 that opposed to it.” (*Glage v. Hawes Firearms Co.* (1990) 226 Cal. App. 3d 314, 324.)

6 ~~“Preponderance of the evidence means what it says, viz., that the evidence on one side~~  
7 ~~outweighs, preponderates over, is more than, the evidence on the other side, *not necessarily in*~~  
8 ~~*number of witnesses or quantity*, but in its effect on those to whom it is addressed.” (*Glage v.*~~  
9 ~~*Hawes Firearms Co.* (1990) 226 Cal. App. 3d 314, 325 [citations omitted].)~~

10 Because this Appeal concerns the denial of a license due to previous “bad acts,”  
11 Appellant must provide sufficient evidence of rehabilitation and overall fitness for licensure.

## 12 V. SUMMARY OF EVIDENCE PRESENTED

### 13 A. Summary of Testimony Presented by Appellant.

14 In support of demonstrating his rehabilitation and fitness for licensure, Appellant  
15 testified on his own behalf.

#### 16 1. Testimony Provided by Appellant.

17 Regarding Appellant’s testimony, he explained he is fit for licensure and has “turned his  
18 life around.” Specifically, Appellant provided emotional testimony that he: (1) attends weekly  
19 alcohol and narcotic abuse meetings; (2) recently re-enrolled in school; (3) is now married with  
20 a child; (4) found god; (4) has been sober for over four (4) years; and (5) has not been arrested  
21 in over six years, since the 2011 convictions. (H.T. at p. 9-11, 17, 19, 22-23.) Appellant also  
22 pointed out that none of his numerous convictions had any relation to horse racing. (H.T. at p.  
23 17.)

24 Further, when asked about whether he has been rehabilitated since the 2011 convictions,  
25 Appellant stated that prison changed him for the better as prison is “ten times worse than in the  
26 movies... and really sucks.” (H.T. at p. 26-27, 31.) Appellant elaborated by explaining that he  
27 made permanent lifestyle changes to ensure he never has to go back to prison, and that he does  
28 not want to be known as the “ex-convict,” but rather as the “jockey.” (Id. at p. 31.)

1 **B. Summary of Testimony Presented by the CHRB.**

2 The CHRB elected to not call any witnesses. (See e.g., *Hora v. San Francisco* (1965)  
3 233 Cal. App. 2d 375, 379 [The burden of proof is on the applicant and it is “not necessary that  
4 it be shown that the applicant’s character is faulty.”], see also, *In re Glass* (2014) 58 Cal. 4th  
5 500 [Applicant must establish a prima facie case of his or her good moral character and  
6 demonstrate his or her rehabilitation, if necessary.])

7 **VI. DISCUSSION**

8 As discussed above, Section 1489.2. provides the following criteria relevant in  
9 evaluating Appellant’s rehabilitation and fitness for licensure:

- 10 (1) The nature and severity of the act(s) and/or offense(s), including its relation to  
11 horse racing or pari-mutuel wagering and the protection of the public; (2) the total  
12 criminal record, including evidence of any act(s) and/or offense(s) committed  
13 subsequent to the act(s) or offense(s) under consideration as grounds for denial...;  
14 (3) the time that has elapsed since commission of the act(s) or offense(s); (4) the  
15 extent to which the person seeking licensure or the licensee has complied with  
16 any terms of parole, probation, restitution or any other sanctions lawfully imposed  
17 against the person or licensee; (5) the credibility of the person seeking licensure  
18 or the licensee, and his or her acceptance of responsibility and remorse for the  
19 conduct; and (6) evidence, if any, of rehabilitation submitted by the person  
20 seeking licensure or by the licensee.

21 Based upon the evidence presented, and as discussed below, Appellant did not meet the  
22 rehabilitation criteria set forth in Cal. Code Regs. Tit. 4 § 1489.2 (“Section 1489.2”), and thus  
23 Appellant cannot make the necessary showing of “rehabilitation” to permit Appellant to be  
24 licensed as a jockey in the State of California.

25 However, Appellant made the necessary showing to be eligible to apply for a one year  
26 conditional exercise rider license. If Appellant does not violate the terms of the conditional  
27 exercise rider’s license, then he shall be eligible to apply for a conditional jockey license subject  
28 to CHRB approval.

29 **1. The Nature and Severity, and Record of Appellant’s Criminal Past is Clear.**

30 Concerning Section 1489.2’s nature and severity element, the severity of Appellant’s  
31 Conduct is without question due to sheer number of criminal convictions. Specifically, since  
32 initially being licensed in 2001, Appellant has 17 criminal convictions. (Exs. 2, 5, 7.) Thirteen  
33

1 of those criminal convictions are felony convictions. (Id.) Moreover, the CHRB gave  
2 Appellant multiple chances, and each time, Appellant squandered the opportunity. (Ex. 4-7.)

3 While this Officer recognizes that none of Appellant's convictions relate to the racing  
4 industry, the number of felony convictions shows Appellant's disregard for the law and calls his  
5 character into question.

6 Due to the severity of Appellant's criminal past and the number of convictions,  
7 Appellant fails to demonstrate the fitness necessary to be licensed as jockey.

8 **2. Appellant Accepts Responsibility and Shows Remorse.**

9 As to whether Appellant accepts responsibility for his conduct and demonstrates  
10 remorse, Appellant undoubtedly does.

11 Specifically, Appellant emotionally explained that he ignored his life priorities, and  
12 instead of "fixing the problems," he made them worse. (H.T. at p. 13, 20.) Appellant also  
13 admits he "has no life" and "feels like less of a man" due to his criminal past. (H.T. at p. 23,  
14 25.) Moreover, Appellant completed several counseling courses aimed at examining past  
15 behavior and how to correct it. (Ex. 10.) Finally, throughout the hearing, Appellant blamed  
16 himself for his current situation. (See gen., H.T. at p. 20-31.)

17 Based upon the above, this Officer finds that Appellant demonstrates significant  
18 acceptance and remorse for his prior conduct.

19 **3. Passage of Time Since Appellant's Previous Bad Act and Parole Compliance.**

20 Since his 2011 convictions, Appellant has not been involved in any criminal offenses  
21 while maintaining his sobriety for the last four (4) years. (H.T. at p. 17, 20.)

22 While this Officer recognizes a great deal of the time Appellant has been "crime free"  
23 was spent serving a prison sentence, it should be noted that the Department of Correction's  
24 records indicate Appellant was a model inmate who remained discipline free while participating  
25 in and completing numerous programs available to him. (Ex. 10.)

26 Moreover, in the two years since being released from prison, Appellant has been model  
27 citizen. In fact, Appellant's parole was discharged early due to his exemplary compliance with  
28 the terms and conditions of his parole. (Ex. at 11.)

1 For these reasons, this Hearing Officer finds that Appellant's six-year record free of  
2 criminal offenses coupled with his exemplary behavior during parole supports Appellant's  
3 request for licensure.

4 **4. Appellant's Rehabilitation Evidence.**

5 Finally, regarding rehabilitation, Appellant demonstrated sufficient rehabilitation.  
6 Specifically, Appellant sufficiently demonstrated his rehabilitation by introducing evidence that  
7 he: (1) attends weekly alcohol and narcotic abuse meetings; (2) recently re-enrolled in school;  
8 (3) is now married with a child; (4) found religion; (4) has been sober for over four (4) years;  
9 and (5) has not committed any offenses since the 2011 convictions. (H.T. at p. 9-11, 17, 19, 22-  
10 23.)

11 More importantly, it appears the time Appellant spent in prison significantly changed his  
12 life outlook as Appellant stated he is determined to make every change necessary to prevent  
13 serving another prison sentence. (H.T. at p. 31.)

14 However, this Officer harbors some doubt as to whether Appellant truly is rehabilitated  
15 and fit for licensure as a jockey. Specifically, the CHRB has given Appellant numerous chances  
16 over the previous sixteen years and Appellant continually failed to take advantage. (Ex. 4-7.)

17 In fact, evidence submitted during the 2008 Hearing mirrors the evidence submitted  
18 during the instant Appeal. Specifically, during the 2008 Hearing, Appellant:

19 (1) submitted a letter of recommendation from his probation officer discussing  
20 Appellant's exemplary behavior during probation and that Appellant was "on the  
21 right track in putting his life back in order"; (2) submitted proof of attending  
22 counseling programs concerning behavioral health and substance abuse; (3)  
23 testified that the time spent in jail made him realize that "drugs and crime were  
not part of the life he wanted to lead"; and (4) presented evidence that he has  
"made tremendous strides in the past thirteen months towards turning his life  
around." (Ex. 7 at p. 1-9.)

24 However, after the 2008 Hearing, Appellant was convicted for three separate felonies  
25 and served time in prison.

26 Because Appellant submitted the same evidence and provided the same testimony during  
27 the 2008 Hearing as Appellant does here, this Officer is skeptical that Appellant is rehabilitated  
28 and fit for licensure despite his contentions otherwise. Stated another way, why should this

1 Officer believe Appellant has turned his life around if he made that same claim in 2008 only to  
2 be subsequently convicted of the separate felonies?

3 Accordingly, for all the above reasons, this Hearing Officer finds that Appellant's  
4 evidence of rehabilitation is neutral regarding Appellant's request for licensure.

5 **5. Conclusion.**

6 ~~Due to Appellant's extensive criminal record and questions concerning his~~  
7 ~~rehabilitation, this Officer finds that Appellant fails to meet the rehabilitation criteria set forth in~~  
8 ~~Cal. Code Regs. Tit. 4 § 1489.2.~~

9 However, Appellant provided sufficient evidence showing he should be eligible to apply  
10 for a one year conditional exercise rider license, subject to all special conditions, terms, and/or  
11 restrictions the CHRB deems necessary. Moreover, if Appellant does not violate the terms of  
12 the conditional exercise rider license for a period of one year, then he shall be eligible to apply  
13 for a conditional jockey license subject to CHRB approval.

14 **VII. CONCLUSION**

15 The evidence presented and admitted during the April 21, 2017 fitness hearing is  
16 sufficient to reach a decision in this matter. Because of the numerous felony convictions, and  
17 because Appellant made the same rehabilitation claims during a 2008 fitness licensure hearing  
18 only to be subsequently convicted of three felonies and sentenced to prison, Appellant failed to  
19 demonstrate at this time the necessary fitness to be licensed as a Jockey in the State of  
20 California.

21 However, Appellant is deemed eligible to apply for a one year conditional license as an  
22 exercise rider subject to all terms and conditions required the CHRB. If Appellant abides by the  
23 conditional exercise rider license's terms for one year from the date of issuance, then he shall be  
24 eligible to apply for a conditional jockey license subject to CHRB approval.

25 ///

26 ///

27 ///

28

