

**BEFORE THE CALIFORNIA HORSE RACING BOARD**

**STATE OF CALIFORNIA**

In the Matter of:  
**FITNESS FOR LICENSURE**

**JOSE JESUS SALDIVAR**  
**AKA: Jose DeJesus Martinez, Jose**  
**DeJesussalvi Martinez**  
**Appellant**

Case No. SAC 13-0015

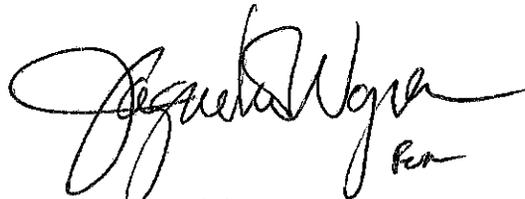
**DECISION**

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 July 18, 2016.

IT IS SO ORDERED ON July 14, 2016.

CALIFORNIA HORSE RACING BOARD  
Chuck Winner, Chairman

A handwritten signature in black ink, appearing to read "Rick Baedeker". The signature is stylized and cursive, with a small "Per" written below it.

Rick Baedeker  
Executive Director

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AKA: Jose DeJesus Martinez, Jose )  
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Appellant )  
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Case No. SAC 13-0015

**PROPOSED DECISION**

This matter was heard on June 1, 2016 by C. Scott Chaney, a Hearing Officer designated under California Horse Racing Board rule 1414 (Appointment of Referee) at California Horse Racing Board headquarters in Sacramento, California.

The Appellant, formerly licensed exercise rider Jose Saldivar, (hereinafter "Appellant" or "Mr. Saldivar"), represented himself.

The California Horse Racing Board (hereinafter "CHRB") was represented by CHRB Investigator Staff Attorney Phil Laird.

The proceedings were recorded by court reporter Wendy Frazier.

PROCEDURAL BACKGROUND

On March 21, 2013, Saldivar applied for and was refused a CHRB license in the category of "exercise rider—TB". On the license application, Saldivar truthfully answered the questions #1 "Have you ever been convicted of ANY public (criminal) offense within the past 36 months?" and #3 "Has any of your license(s) to participate in racing EVER been revoked or suspended for more than 10 days?" On his Criminal History Information form (CHRB 4a), he noted that he was serving probation for petty theft from 2009, and had completed DUI classes for a felony hit and run (property damage) incident in 2010. His probation was to end August 2013. Based on those answers, Mr. Saldivar was denied a CHRB license. He appealed that decision and a hearing was held on June 19, 2013. The hearing officer at that hearing was impressed with Appellant's remorse and rehabilitation, and therefore proposed that he be granted a license upon presenting evidence that he had been discharged from probation. The Board adopted that Statement of Decision and referred the case back to the Hearing Officer. In the interim, Complainant was granted a license in both Washington State and Oregon,

and has now sought to be relicensed here in California. The purpose of this hearing is to take evidence concerning Mr. Saldivar's probation and whether he should be considered for a license. Both parties were noticed and the hearing was scheduled for June 1, 2016. On that day, the hearing was called to order at approximately 10:00 am in accordance with the notice supplied to all parties. The CHRB submitted documentary evidence relevant to the matter, while the Appellant presented his own testimony, as well as documentary evidence. The record was closed and the matter deemed submitted that same morning.

#### LIST OF EXHIBITS

*CHRB Exhibit #1* – Order Directing Additional Evidence.

*CHRB Exhibit #2* – County of Santa Clara Probation Department status update.

*CHRB Exhibit #3* – CHRB Proposed Rule 1489. Grounds for Denial or Refusal of License.

*CHRB Exhibit #4* – CHRB Proposed Rule 1489.2. Criteria to Evaluate Rehabilitation of a Person When Considering Denial, Suspension, or Revocation of an Occupational License.

*Appellant Exhibit A* – Letter from Gary Baze, WHRC Steward; Letter from WHRC Investigator, Jill Hallin; Email from Roddina Barrett; Email from Owner/trainer Chris Stenslie.

#### FACTUAL FINDINGS

##### **I**

Exercise rider Jose Jesus Saldivar held a valid CHRB license until September 25, 2011, when PRA Board of Stewards' ruling No. 25 suspended that license through its term pursuant to CHRB rule #1900 for violation of CHRB rule #1489 (a)(c) and (h).

##### **II**

Saldivar plead or had been convicted of misdemeanor burglary and petty theft in separate cases dating to 2009 and 2010 in Santa Clara and San Mateo Counties.

##### **III**

In February 2010, Saldivar was arrested and convicted for felony Reckless Driving, DUI drugs and alcohol, Hit and Run (property damage), and Resisting Arrest. He was sentenced to three years formal probation, fines and restitution. His probation concluded in August 2013.

#### IV

On June 16, 2010, Saldivar submitted a license renewal application to the CHRB. He was ultimately suspended and denied a license pursuant to those convictions.

#### V

In March of 2103, he reapplied for a license, was denied and then requested a fitness for licensure hearing.

#### VI

The first fitness for licensure hearing was held in June of 2013 and the hearing officer published a proposed decision recommending re-licensure when Appellant provided evidence of his discharge from probation. The Board accepted that recommendation and remanded back to the Hearing Officer in order to accept the aforementioned evidence.

#### VII

Since that time, Appellant has been working as an exercise rider in the Pacific Northwest and only recently requested a second fitness for license hearing.

#### VIII

At hearing, Mr. Salidvar presented evidence that demonstrated that he was discharged from probation in August 2013. Since then he has not had any further experiences with the criminal justice system. In fact, he presented several documents giving him positive recommendations from racing participants in Washington and Oregon.

### APPLICABLE LAWS AND REGULATIONS

#### **California Horse Racing Board Rule 1489 (Grounds for Denial or Refusal of License).**

The Board, in addition to any other valid reason, may refuse to issue a license or deny a license to any person:

- (a) Who has been convicted of a crime punishable by imprisonment in a California state prison or a federal prison, or who has been convicted of a crime involving moral turpitude.

### DISCUSSION OF ISSUES

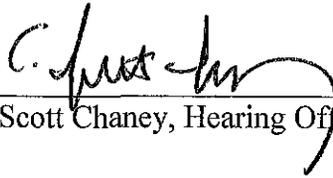
This matter is fairly straight forward. The purpose of this hearing was to take evidence that proved that Appellant had been discharged from probation. He presented that evidence and in fact has not been on probation in nearly three years. Appellant went further, however, and presented evidence of his rehabilitation, sobriety and contribution

to horse racing in the Pacific Northwest. He would now like to return to California where his family lives. At hearing, the CHRB did not oppose his re-licensure but requested two conditions; (1) that he sign a testing agreement and (2) enter into a contract with the Winners' Foundation. Neither request seems unreasonable and in fact, Mr. Saldivar is already in contact with the Winners' Foundation.

CONCLUSION/PROPOSED DECISION

Given all of the foregoing, it is recommended that Jose Saldivar be permitted to apply and be eligible for a California Horse Racing Board license in the license category of exercise rider or pony rider. The following conditions should be applied to any license Mr. Saldivar holds for as long as he holds it: (1) Mr. Saldivar signs a testing agreement with the CHRB; (2) Mr. Saldivar not be convicted of any other crime (excluding moving violations) or violate significant CHRB Rules or Regulations; and (3) Mr. Saldivar enters into a contract with the Winners' Foundation and abides by its terms.

DATED: June 27, 2016.

  
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C. Scott Chaney, Hearing Officer

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