

BEFORE THE CALIFORNIA HORSE RACING BOARD
OF THE STATE OF CALIFORNIA

In the Matter of:

**Appeal of the Board of Stewards Official
Ruling #81, Golden Gate Fields
Winter/Spring Pacific Racing Association,
May 16, 2024:**

Case No.: SAC 24-0022

**JOSE DE JESUS MARTINEZ SALDIVAR
CHRB License # 290585, Appellant**

DECISION

The attached Proposed Decision is adopted by the California Horse Racing Board as its Decision in the above-entitled matter. The Decision affirms the Board of Stewards Official Ruling #81, Pacific Racing Association, Dated May 16, 2024

This matter is hereby remanded to the Board of Stewards to issue a ruling reflection this Decision.

IT IS SO ORDERED ON August 19, 2024.

**Gregory L.
Ferraro, DVM**
Gregory L. Ferraro, DVM, Chairman
California Horse Racing Board

Digitally signed by Gregory L.
Ferraro, DVM
Date: 2024.08.19 13:51:21
-07'00'

C. Scott Chaney
Scott Chaney, Executive Director
California Horse Racing Board

Digitally signed by C. Scott
Chaney
Date: 2024.08.19 13:12:11
-07'00'

1 **EDWARD J. WEISS (CA SBN 136985)**

2 9663 Santa Monica Boulevard, #1194

3 Beverly Hills, CA 90210

4 Phone: 310-614-8064

5 ed@weissadr.com

6 **BEFORE THE CALIFORNIA HORSE RACING BOARD**

7 **STATE OF CALIFORNIA**

8 In the Matter of:

Case No. **SAC 24-0022**

9 Appeal of the Board of Stewards Official

PROPOSED DECISION

10 Ruling #81, Golden Gate Fields Winter/Spring

11 Pacific Racing Association, May 16, 2024

Hearing Date:

July 3, 2024, at 10:00 a.m.

12 **JOSE De Jesus Martinez Saldivar (license #**
13 **290585),**

14 **Appellant**

15 **PROPOSED DECISION**

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19 This matter was heard on July 3, 2024, by Edward J. Weiss, Esq., a Hearing Officer
20 designated by the California Horse Racing Board, in a Microsoft Teams audio and video
21 conference.

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23
24 Appellant Jose De Jesus Martinez Saldivar (hereinafter "Saldivar" or "Appellant")
25 appeared and represented himself.

26
27 The California Horse Racing Board ("CHRB" or "Respondent") was represented by.

28
PROPOSED DECISION RE: JOSE DE JESUS MARTINEZ SALDIVAR APPEAL OF THE RULING OF THE
STEWARDS #81 DATED MAY 16, 2024

1 Deputy Attorney General Robert Brodnik.

2
3 Saldivar and the CHRB are at times below referred to collectively as the “Parties.”
4

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6
7 CHRB employees Vince Somma and Kimberly Herd also attended the hearing.
8

9 The proceedings were recorded by court reporter Michelle E. Derieg of Weinstein Court
10 Reporters, LLC.
11

12 13 **PROCEDURAL BACKGROUND**

14 Saldivar is a CHRB licensee (#290585) whose license was suspended for the term of the
15 license by the Stewards at Golden Gate Fields pursuant to their Official Ruling #81 for violation
16 of CHRB Rule 1485(d) (License Subject to Agreement and Conditions); Rule 1874 (Disorderly
17 Conduct) and 1489(a)(1) and (2) (Grounds for Denial or Refusal to License) and CHRB Rule
18 1900 (Grounds for Suspension or Revocation). Saldivar has timely filed this appeal on which a
19 hearing was held on July 3, 2024, via Microsoft Teams.
20

21 **LIST OF ADMITTED EXHIBITS**

22 The following exhibits were offered by the CHRB and admitted into evidence.
23

24 **CHRB EXHIBITS**

25 **CHRB Exhibit 1:** Certified Transcript from Stewards’ Hearing Dated May 2, 2024 (44
26 pages).
27

28 **CHRB Exhibit 2:** Stewards Ruling Dated May 16, 2024 (110 pages).

1
2 **SALDIVAR EXHIBITS**

3 None.
4

5
6 **LIST OF WITNESSES**
7

8 The following witnesses testified at the hearing:

9 For Appellant: Guadalupe Martinez and Jose De Jesus Martinez Saldivar
10

11 For CHRB: Jose De Jesus Martinez Saldivar

12 **APPLICABLE LAWS AND REGULATIONS**

13 **CHRB Rule 1489, Grounds for Denial or Refusal to License** - provides, in
14 pertinent part, as follows:

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

17
18 (1) Who has been convicted of a crime punishable by imprisonment in a
19 California state prison or a federal prison, or who has been convicted of a
20 crime of moral turpitude....

21 (2) Who has been convicted of a crime in another jurisdiction which if committed
22 in this state would be a felony.
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1 **CHRB Rule 1485 – License Subject to Conditions and Agreements**

2 ...

3 (d) The Board may place conditions on any license it issues. All licensees shall
4 strictly comply with any condition imposed by the Board.

5 **CHRB Rule 1489.2 – Criteria to Evaluate Rehabilitation of a Person When**
6 **Considering Denial, Suspension or Revocation of a License**

7 (a) When considering the denial of a license under Business and Professions

8 Code section 480, or the suspension or revocation Business and Professions

9 Code section 490, on the grounds that the person has committed an act or been

10 convicted of a crime, the California Horse Racing Board will evaluate the

11 rehabilitation of such person and his or her eligibility for licensure, and shall

12 consider the following criteria:

13 (1) The nature and severity of the act(s) and/or offense(s), including its

14 relation to horse racing or pari-mutuel wagering and the protection of

15 the public.

16 (2) The total criminal record, including evidence of any act(s) and/or

17 offense(s) committed subsequent to the act(s) or offense(s) under

18 consideration as grounds for denial, suspension or revocation which

19 also could be considered grounds for denial, suspension, or revocation

20 under Business and Professions Code sections 480 or 490.

21 (3) The time that has elapsed since commission of the act(s) or offense(s).

1 (4) The extent to which the person seeking licensure, or the licensee has
2 complied with any terms of parole, probation, restitution or any other
3 sanctions lawfully imposed against the person or licensee.
4

5 (5) The credibility of the person seeking licensure or the licensee, and his
6 or her acceptance of responsibility and remorse for the conduct.

7 (6) Evidence, if any, of rehabilitation submitted by the person seeking
8 licensure or by the licensee....
9

10 **California Business & Professions Code Section 19517 – Grounds for Board**
11 **to Overrule a Decision of the Stewards**

12 (a) The board, upon due consideration, may overrule any steward's decision other
13 than to disqualify a horse due to a foul or a riding or a driving infraction in a
14 race, if a preponderance of the evidence indicates any of the following:

15 (1) The steward mistakenly interpreted the law.

16 (2) New evidence of a convincing nature is produced.

17 (3) The best interests of racing and the state may be better served.
18
19

20 **CHRB Rule 1874 – Disorderly Conduct**

21 No licensee, shall be under the influence of any alcoholic beverage, and/or any
22 illegal substance while performing their respective duties while within the
23 inclosure of any racing association or fair, simulcast wagering facility, auxiliary
24 stabling facility or Board-approved training facility. Nor shall any licensee
25 conduct themselves in a disorderly or boisterous manner at any time while within
26 the inclosure of any racing association of fair, simulcast wagering facility,
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1 auxiliary stabling facility of Board-approved training facility including but not
2 limited to:

- 3 1. Fighting;
4
5 2. Threatening, abusive or aggressive behavior toward another person.
6
7 3. Any behavior that impedes others from performing their duties; and/or
8
9 4. Any other behavior that is detrimental to the public and racing.

10 **CHRB Rule 1900 – Grounds for Suspension or Revocation**

11 Any provision of any rule which is a ground for denial of a license is also a
12 ground for suspension or revocation of a license.

13 **CHRB Rule 1930 – Obedience to Security Officers and Public Safety Officers**

14 No licensee shall willfully ignore or refuse to obey any lawful order issued by the
15 stewards, the Board, or any security officer of the association, or any public safety
16 officer of any police, fire or law enforcement agency, when such order is given in
17 the performance of duty.

18 **FACTUAL FINDINGS**

19 **I.**

20 In 2016, Saldivar was permitted to apply for a CHRB license with a stipulation
21 that various conditions “be applied to any license Mr. Saldivar holds for as long as he holds it.”
22 Saldivar Stewards Transcript p. 39, lines 9-17. The conditions included that Saldivar not be
23 convicted of any other crime, and those conditions were adopted by the California Horse Racing
24 Board on July 14, 2016 (CHRB Exhibit 2; page 46).
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1 II.

2 Saldivar admitted that he committed the felony of injury to spouse on March 15, 2022,
3 a violation of California Penal Code Section 273.5. (CHRB Exhibit 2; page 30; Reporter's
4 Transcript from July 3, 2024, hearing ("RT") page 17; lines 16-22). As a result, Saldivar
5 violated the terms of the conditions of his license.
6

7 III.

8 On June 29, 2023, Saldivar entered into an agreement with the CHRB in which
9 he agreed to abide by the terms in an existing restraining order that prohibited him from
10 harassing CHRB licensee Shyann Martinez. (CHRB Exhibit 2; pages 96-97).
11

12 IV.

13 Contrary to the terms of the above agreement with the CHRB, Saldivar was
14 alleged to have made harassing telephone calls to Shyann Garcia on or about August 16, 2023.
15 (CHRB Exhibit 2; page 14). Garcia reported this conduct to the Santa Rosa Police Department.
16 (Exhibit 1, 27:2-22).
17

18 V.

19 In September of 2023, Saldivar's probation was revoked after he admitted to
20 violating his probation violation in San Mateo Superior Court, and Saldivar was thereupon
21 sentenced to two years in state prison. RT 18:2-16.
22

23 VI.

24 The Stewards found that Saldivar violated the conditions placed on his license
25 in violation of CHRB Rule 1485. CHRB Exhibit 2. Appellant did not present evidence of a
26 convincing nature to demonstrate that Appellant did not violate the conditions placed on his
27 license. While he denied the allegations that he harassed Ms. Garcia, which denial was
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1 corroborated by his mother Guadalupe Martinez who testified at his appeal hearing (RT 11),
2 Saldivar admitted that he violated his probation during his probation revocation hearing in 2023
3 at which hearing he received a sentence of imprisonment in state prison for two years.
4

5 VII.

6 Saldivar has a long history with the California Horse Racing Board, having come
7 before the Board of Stewards and California Horse Racing Board on numerous occasions. RT
8 22: 1-6. This includes a fitness hearing in 2016 that resulted in him receiving a license with
9 conditions including not being convicted of other crimes. RT 22: 12-25.
10

11 VIII.

12 On two different occasions Saldivar signed an agreement with CHRB investigator
13 Longoria which memorialized or restated a restraining order to which he was subject. RT 12-25.
14 One of those occasions was in June 2023. RT 24:6-7.
15

16 IX.

17 Saldivar denies that he violated anything. RT 25:16-19. He also testified that the
18 revocation of his probation did not have to do with his violation of his restraining order. RT
19 28:11-17. While the facts underlying the revocation of Saldivar's probation are unclear, Saldivar
20 did not present convincing evidence to overcome the fact that the Superior Court revoked his
21 probation following it coming to the attention of his probation officer that he had been contacted
22 by the Santa Rosa Police Department and sentenced him to two years in prison. Saldivar did not
23 present sufficient evidence of a convincing nature to overcome the presumption that his conduct
24 or actions supported revoking his probation. While he denied the allegations in this proceeding,
25 he did not contest the revocation of his probation and agreed to a two-year prison sentence in
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1 court on the advice of his lawyer to accept a two-year prison sentence, which he received on or
2 about September 23, 2023. RT 30:1-5. Saldivar is not clear on the reason his probation was
3 revoked. RT 29:17 - 30:1-14.
4

5 X.

6 Saldivar served 8 months in Avenal State Prison of his two-year prison sentence.
7 RT 30:8-10.
8

9 XI.

10 Saldivar seemed to be sincere in expressing a strong desire to receive “another
11 chance” to obtain a CHRB license in order to resume working at Golden Gate Fields, the only
12 work that he knows. He also seemed sincere in strongly contending he did not do anything to
13 merit having his probation revoked. He testified that he currently does not have a job and has
14 been trying very hard without success to find one. He is struggling to make whatever modest
15 child support payments he can even without a job, “paying like \$50 here, \$20 there.” R.T. 6:23-
16 25 He testified that tried to avoid any conflict with the police and he wants “another chance.”
17 The record also shows that Saldivar has already received additional chances from the CHRB,
18 which granted him a license in 2016 and entered into an agreement with him that required him to
19 not violate a restraining order to which he was subject.
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23 **DISCUSSION OF THE ISSUES**

24 The CHRB suspended Appellant’s license charging several regulatory violations of
25 the following rules: CHRB Rule 1485 (conditions placed on licenses); CHRB 1489(a)(1)
26 (conviction of a felony punishable for more than a year); CHRB (violation of the terms of the
27 conditions of a license) and CHRB Rule 1874 (Disorderly Conduct). Unless Appellant can carry
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1 his burden under one or more of the prongs of California Business & Professions Code Section
2 19517, either to show the Stewards misapplied the law, there is new evidence of a convincing
3 nature or the best interests of racing would be served, the ruling of the Stewards should be upheld.
4 Here, Appellant has not met his burden under any of the bases of Section 19517 to justify reversing
5 the suspension of his license.
6

7 As set forth in CHRB Exhibit 2 and supported by the Findings of Fact above, the
8 evidence presented to the Stewards and adduced at the appeal hearing on July 3, 2024 establish
9 that (1) Appellant was convicted of felony (for injury to a spouse, Penal Code §273.5) in 2022.
10 received probation and the term of probation was revoked in 2023 and he was sentenced to two
11 years in state prison (while he served 8 months, the offense was punishable by more than a year in
12 prison, which is the basis for suspension or revocation under CHRB Rule 1489)(a)(1)); and (2) the
13 terms of his license (which itself was issued as another chance) required him to not commit another
14 crime, and he clearly violated that material condition by committing the offense of spousal abuse.
15

16 Even if Appellant's denial that he did anything to justify his probation being
17 revoked were accepted, that does not change the fact that are two independent bases on which the
18 Stewards were justified in suspending his license – his felony conviction for injury to a spouse
19 which resulted in a two year prison term and is a violation of the condition of his license to not
20 commit another crime. In addition, there was enough evidence before the Stewards that Appellant
21 was not able to overcome to show that he likely also violated the terms of his restraining order and
22 his commitment to the CHRB to violate it based on the fact that he did not contest his probation
23 revocation in court and received a two year sentence.
24

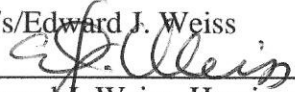
25 Appellant comes the closest to showing the finding that he engaged in disorderly
26 conduct should be reversed, based on his claim that he did not violate his restraining order and the
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1 testimony of his mother Guadalupe Martinze in support of his denial. However, even if the
2 evidence he presented to support his claim that he did not harass Ms. Garcia and did not violate
3 the terms of his restraining order, as discussed above, that does not change the fact that has a
4 serious felony conviction in the recent past which itself is a ground to suspend his license and it is
5 a violation of his agreement with the CHRB and the terms under which his license was issued and
6 allowed to remain in effect. It is possible that Appellant chose not to contest the revocation of his
7 probation and accept a sentence of 2 years because that was the best legal option available to him.
8 But just as accepting the revocation of his probation came with the harsh consequence of a two-
9 year prison term, it makes it difficult on this record to find that it was unreasonable for the Stewards
10 to find that he violated his restraining order. It may be that his acceptance of the sentence, on the
11 advice of counsel does not necessarily mean that he committed the underlying conduct and violated
12 his restraining order and the agreement to not violate the restraining order that he entered into with
13 the CHRB, but there was not enough new evidence presented to show that the Stewards erred in
14 finding he violated his agreement to not violate his restraining order. In any event, as discussed
15 above, his felony conviction in 2022 for injury to a spouse itself provides sufficient grounds to
16 uphold the suspension of his license. While Appellant seems sincere in the contention that he did
17 not do anything beyond his felony conviction in 2022, that felony conviction by itself is enough to
18 support the suspension or revocation of his license.

22 Appellant requests and believes he is deserving of another chance. However, he has
23 already received a chance to apply for, obtain and retain a CHRB license and has violated the
24 conditions on which the license is to remain in effect. On this record, the Stewards were justified
25 in suspending his license and finding in effect that his is not deserving of another chance at this
26 time.
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1 For the foregoing reason, the Stewards' Ruling #81 to suspend Appellant's CHRB license
2 should be upheld.
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5 Dated: August 2, 2024

/s/Edward J. Weiss

Edward J. Weiss, Hearing Officer