

CALIFORNIA HORSE RACING BOARD

1010 Hurley Way, Suite 300
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LEGISLATIVE, LEGAL AND REGULATIONS COMMITTEE MEETING

of the **California Horse Racing Board** will be held on **Thursday, April 24**, commencing at **2:00 p.m.**, at the **Bayview Lounge (Turf Club) at Golden Gate Fields, 1100 Eastshore Hwy, Berkeley, California**. Non-committee Board members attending the committee meeting may not participate in the public discussion, official committee vote or committee closed session.

AGENDA

Agenda Items

1. Discussion and action regarding the **matter of the San Luis Rey Racing, Inc. (dba San Luis Rey Downs) July 18, 2013 proposed decision.**
2. Discussion and action regarding **approval of the revised CHRB Governing Procedures notice for disciplinary hearing.**
3. **General Business:** Communications, reports, requests for future actions of the Committee.

Additional information regarding this meeting may be obtained from Jacqueline Wagner at the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, CA 95825; telephone (916) 263-6000; fax (916) 263-6042. A copy of this notice can be located on the CHRB website at www.chrb.ca.gov. *Information for requesting disability related accommodation for persons with a disability who require aids or services in order to participate in this public meeting, should contact Jacqueline Wagner.

LEGISLATIVE, LEGAL AND REGULATIONS COMMITTEE

Commissioner Jesse H. Choper, Chairman
2nd Vice Chairman Richard Rosenberg, Member
Rick Baedeker, Executive Director
Jacqueline Wagner, Assistant Executive Director

CALIFORNIA HORSE RACING BOARD

APRIL 16, 2014

**LEGISLATIVE, LEGAL AND
REGULATIONS COMMITTEE MEETING**

There is no package material for Item 1

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING AN
UPDATE OF THE CHRB GOVERNING PROCEDURES FOR HEARINGS

Legal, Legislative And Regulations Committee Meeting
April 24, 2014

BACKGROUND

When the California Horse Racing Board Enforcement Unit serves a disciplinary Complaint against a Licensee, the Licensee also receives a copy of the Governing Procedures that will be used in the prosecution of the matter.

Attachment 1 is the current version of the Governing Procedures served by the Enforcement Unit.

The Governing Procedures are required to be given to the Licensee to inform him or her how the disciplinary hearing will be conducted. Importantly, the Governing Procedures set forth the rights of the Licensee, including the right to discover the evidence that supports the allegations in the Complaint, the right to have counsel represent the Licensee at the Hearing, the right cross examine witnesses and present rebuttable evidence, as well as the appeal rights of the Licensee should the Board of Stewards uphold the Complaint.

Presently, there is only one form of Governing Procedures provided to the Licensee, regardless of the type of Rule violation alleged or the penalty to be requested. Staff Counsel and the Office of the Attorney General have reviewed the current Governing Procedures and propose adopting the three separate Governing Procedures, depending upon the type of Rule violation alleged and the penalty sought.

ANALYSIS

A: Attachment 2 is the proposed Governing Procedures for non-drug related violations before the Board of Stewards.

Attachment 2 mirrors the current Governing Procedures with one important addition. Paragraph 9 distinguishes between a hearing seeking to revoke a license and a non-revocation hearing. The current Governing Procedures are silent in this

important regard and do not provide the Licensee with a clear understanding of his or her rights. In the cases where the revocation of a license is sought, the totality of Chapter 5 (Administrative Adjudication: Formal Hearing) of the Administrative Procedure Act applies, Government Code section 11500 et seq, as mandated by Business and Professions Code section 19461. A revocation hearing will not be conducted by the Board of Stewards, but will be heard by an Administrative Law Judge, hearing officer or referee who will be taking evidence and drafting a proposed decision on behalf of the California Horse Racing Board to consider. Attachment 2 makes clear that the Board of Stewards may refer a matter to the California Horse Racing Board if license revocation is determined to be appropriate.

However, if license revocation is **not** sought, Business and Professions Code section 19461 does not require the disciplinary hearing to be conducted pursuant to Chapter 5 of the APA. In the past and currently, non-revocation hearings before the Board of Stewards are conducted pursuant to the Governing Procedures in Attachment 1. Attachment 2 more clearly delineates how non-revocation disciplinary hearings before the Board of Stewards are to be conducted. Attachment 2 provides the non-revocation hearing will be conducted under Government Code section 11513 (Evidence; examination of witness), Government Code section 11514 (Affidavits) and Government Code section 11515 (Official Notice). Further, Attachment 2 conforms to the Administrative Adjudication Bill of Rights stated in Government Code section 11425.10.

Finally, Attachment 2 authorizes hearing officers to hear appeals in addition to Administrative Law Judges and referees.

B. Attachment 3 is the proposed Governing Procedures for non-revocation Class 1, 2 or 3 Drug Violation cases.

Attachment 3 is consistent with the Attachment 2, with an additional provision regarding a Licensee's right to elect to have the matter heard by the Board of Stewards or a hearing officer as permitted by Business and Professions Code section 19517.5.

Appeals from a non-revocation drug violation case will be heard directly by the California Horse Racing Board.

C. Attachment 4 is the proposed Governing Procedures for Class 1, 2 or 3 Drug Violation cases where revocation of license is the penalty sought.

Revocation of a California Horse Racing Board license requires the proceedings to be conducted pursuant to Chapter 5 of the APA, Government Code section 11500 et seq.

Representatives of the California Thoroughbred Trainers organization have voiced objections to the Proposed Governing Procedures. Primarily, the Representatives assert Chapter 5 of the Administrative Procedures Act should apply to all California Horse Racing Board disciplinary hearings. While Chapter 5 of the Administrative Procedures Act is required for any disciplinary hearing seeking revocation of a California Horse Racing Board License, Counsel for the Board and the Office of Attorney General Liaison Counsel do not believe Chapter 5 is required or warranted for disciplinary hearings not involving revocation of a License.

Attached is language which can be incorporated into the official notice of disciplinary action from the California Horse Racing Board. The language is submitted to allay the concerns of Representatives of the California Thoroughbred Trainers organization.

RECOMMENDATION:

Staff recommends the proposed Governing Procedures (Attachments 2, 3 and 4) be adopted by the California Horse Racing Board.

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GOVERNING PROCEDURE FOR HEARING
BEFORE BOARD OF STEWARDS

1. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in the bringing the charges against you, as well as all documents which the CHRB intends to put in evidence at the hearing.
2. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
3. You are entitled to be represented by an attorney at the hearing.
4. The hearing shall be open to the public.
5. All or part of the hearing may be conducted telephonically, to the extent that all parties agree, and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
6. If you believe that a steward on the Board of Stewards who will hear your case is biased or prejudiced against you, or has an interest in the outcome of the proceeding, you may challenge the steward. Upon such challenge, the steward may either disqualify him/herself or put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If a steward is disqualified, another steward will be appointed to sit on the Board of Stewards for purposes of hearing the matter. If the challenged steward is not disqualified, you may challenge the decision not to disqualify the steward as a separate matter on appeal. The decision of a steward of the Board of Stewards regarding such challenge is final.
7. From the time that the Complaint and Notice to Appear issues until the Board of Stewards renders its decision, you may not communicate, in any manner, directly or indirectly, with the Board of Stewards, unless at the same time, the communication is shared with all parties to the proceedings including the CHRB. This rule applies equally to the CHRB and its representatives.
8. You may request a subpoena for the production of witnesses or documents at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness or the production of documents at the hearing. The Board of Stewards will decide disputes regarding the production of witnesses or documents.
9. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a tape recording or transcript of the hearing from the CHRB. It will be provided to you free of charge.
10. You will receive a written decision after the hearing. The decision will be written by the majority, be based on the record, and include a statement of the factual and legal basis for the decision. The

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decision will also include a description of the penalty imposed, if any. The Board of Stewards will take action upon a majority decision. In the event of a split vote, each steward shall file a separate written decision on the matter.

11. You have 72 hours from the receipt of the written decision to appeal the Board of Stewards decision to the CHRB. You may request a stay of any penalty pending appeal.
12. If you timely appeal a Board of Stewards' decision, the matter will be heard on behalf of the CHRB by an administrative law judge (ALJ) or referee designated by the CHRB. On appeal, you bear the burden of showing that the law was improperly interpreted or applied by the Stewards and/or that the steward's factual determination were not supported by substantial evidence or that the best interest of racing in the State may be better served by reversal or modification of the stewards decision. The ALJ/referee will draft a proposed decision and submit it to the CHRB.
13. The CHRB may adopt, modify and adopt, or reject the proposed decision of the ALJ/referee.
14. If you are dissatisfied with the CHRB's decision, you may appeal that decision to Superior Court.

**GOVERNING PROCEDURE FOR DISCIPLINARY HEARING
BEFORE BOARD OF STEWARDS**

1. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.
2. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
3. You are entitled to be represented by an attorney at the hearing.
4. The hearing shall be open to the public.
5. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
6. If you believe that a steward on the Board of Stewards who will hear your case is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge that steward. Upon such challenge, the steward may either disqualify him/herself or put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of that steward. If a steward is disqualified, another steward, will be appointed for purposes of hearing the matter. If the steward is not disqualified, you may challenge the decision not to disqualify the steward as a separate matter on appeal. The decision of the Board of Stewards regarding such challenge is final.
7. While the proceeding is pending, beginning with the issuance of the Complaint and Notice to Appear, you may not communicate, in any manner, directly or indirectly, with the Board of Stewards regarding any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all the parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precluded communications made on the record at the hearing. Applicable exception to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.
8. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Board of Stewards, hearing officer or referee will decide disputes.

GOVERNING PROCEDURE

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9. The Stewards may refer your matter to the CHRB if license revocation is determined to be appropriate. In that case, Chapter 5 of the Administrative Procedure Act will apply to the proceedings to revoke your license and will supplant any inconsistent provisions herein. Chapter 5 is Government Code sections 11500 et seq. If the matter is not referred to the CHRB, the proceedings will be held before the Board of Stewards, Hearing Officer or Referee under the evidentiary provisions of Government Code sections 11513, 11513 and 11515, but Chapter 5 will not otherwise apply.
10. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.
11. You will receive a written decision after the hearing. The written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any. The Board of Stewards will take action upon a majority decision. In the event the decision is not unanimous, one or more dissenting or concurring decisions shall be filed. Each steward shall file his/her own written decision or join in a written decision on the matter.
12. You may appeal the decision of the Board of Stewards' decision to the CHRB. Appeals must be received by a CHRB employee at any of its offices not later than 72 hours from the date of the decision.
13. If you timely appeal a decision, the matter will be heard on behalf of the CHRB by an administrative law judge (ALJ), a referee or a hearing officer designated by the CHRB. The ALJ, referee or hearing officer will draft a proposed decision and submit it to the CHRB. On appeal, you bear the burden of proving the facts necessary to sustain the appeal. The CHRB will consider evidence that was presented to the Board of Stewards. It will also consider whether the stewards mistakenly interpreted the law, whether new evidence of a convincing nature is produced, and whether the best interests of racing and the state may be better served by overruling the stewards' decision.
14. The CHRB may adopt, modify and adopt, or reject the proposed decision of the ALJ, referee or hearing officer.
15. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.

**GOVERNING PROCEDURE FOR DISCIPLINARY HEARING
BEFORE BOARD OF STEWARDS OR HEARING OFFICER
NON-REVOCATION ENFORCEMENT PROCEEDINGS
ALLEGING CLASS 1, 2, OR 3 DRUG POSITIVE VIOLATION**

1. Your matter will be heard by the Board of Stewards or by a hearing officer. Below, the term "Presiding Officer" shall refer to the individual or individuals who will hear your case whether it be stewards or a hearing officer.
2. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.
3. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
4. You are entitled to be represented by an attorney at the hearing.
5. The hearing shall be open to the public.
6. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
7. If you believe that the Presiding Officer is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge the Officer. Upon such challenge, the Officer may disqualify him/herself. If your challenge is to a steward, the steward may put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If your challenge is to a hearing officer, the hearing officer may put the decision to the Executive Director. If a Presiding Officer is disqualified, another Presiding Officer will be appointed as a replacement. If the challenged Officer is not disqualified, you may challenge the decision not to disqualify the Officer as a separate matter on appeal. The decision of the challenged Presiding Officer, the Board of Stewards or Executive Director regarding such challenge is final.
8. From the time the Complaint and Notice to Appear issues until the CHRB renders its decision, you may not communicate, in any manner, directly or indirectly, with the Presiding Officer regarding

GOVERNING PROCEDURE

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any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precludes communications made on the record at the hearing. Applicable exceptions to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.

9. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Presiding Officer will decide disputes.
10. The hearing will be conducted under the evidentiary provisions of Government Code sections 11513, 11514 and 11515. Otherwise, the only disciplinary proceedings to which Chapter 5 of the Administrative Procedure Act apply are license revocation proceedings, and the Board does not anticipate seeking a revocation of your license in this matter. Chapter 5 is Government Code sections 11500 et seq.
11. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.
12. The Presiding Officer will draft a proposed decision and submit it to the CHRB. The CHRB may adopt, modify and adopt, or reject the proposed decision of the Presiding Officer. The CHRB's written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any.
13. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.

**GOVERNING PROCEDURE FOR DISCIPLINARY HEARING
BEFORE BOARD OF STEWARDS OR HEARING OFFICER
REVOCATION ENFORCEMENT PROCEEDINGS
ALLEGING CLASS 1, 2, OR 3 DRUG POSITIVE VIOLATION**

1. Your matter will be heard by the Board of Stewards or by a hearing officer. Below, the term "Presiding Officer" shall refer to the individual or individuals who will hear your case whether it be stewards or a hearing officer.
2. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.
3. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
4. You are entitled to be represented by an attorney at the hearing.
5. The hearing shall be open to the public.
6. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
7. If you believe that the Presiding Officer is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge the Officer. Upon such challenge, the Officer may disqualify him/herself. If your challenge is to a steward, the steward may put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If your challenge is to a hearing officer, the hearing officer may put the decision to the Executive Director. If a Presiding Officer is disqualified, another Presiding Officer will be appointed as a replacement. If the challenged Officer is not disqualified, you may challenge the decision not to disqualify the Officer as a separate matter on appeal. The decision of the challenged Presiding Officer, Board of Stewards or Executive Director regarding such challenge is final.
8. From the time the Complaint and Notice to Appear issues until the CHRB renders its decision, you may not communicate, in any manner, directly or indirectly, with the Presiding Officer regarding

GOVERNING PROCEDURE

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any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precludes communications made on the record at the hearing. Applicable exceptions to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.

9. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Presiding Officer will decide disputes.
10. Chapter 5 of the Administrative Procedure Act (Government Code section 11500 et seq.) is applicable to this proceeding except for the provisions of Chapter 5 that are inconsistent with Business & Professions Code, section 19517.5 or any other section of the Horse Racing Law (Chapters 4 and 4.5, Division 8 of the Business & Professions Code.)
11. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.
12. The Presiding Officer will draft a proposed decision and submit it to the CHRB. The CHRB may adopt, modify and adopt, or reject the proposed decision of the Presiding Officer. The CHRB's written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any.
13. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.

Miller, Robert

From: Wagner, Jacqueline
Sent: Friday, September 13, 2013 9:15 AM
To: Miller, Robert
Subject: FW: CTT Proposed Governing Procedures
Attachments: CTT, Governing Procedures.docx

Bob

This is what I received from Carlo Fisco.

Jackie

From: CFisco@aol.com [<mailto:CFisco@aol.com>]
Sent: Thursday, August 15, 2013 11:39 AM
To: choperj@law.berkeley.edu; rosenberglttd@yahoo.com
Cc: dichrb@gmail.com; cwinnr@gmail.com; gk@kptmovies.com; afbalch@gmail.com; Wagner, Jacqueline
Subject: CTT Proposed Governing Procedures

Dear Cmmrs. Choper and Rosenberg,

In anticipation of the scheduled agenda item regarding revision of the CHRB Governing Procedures notice for disciplinary hearing appearing on both the CHRB Board Meeting agenda as well as your Legislative, Legal and Regulations Committee agenda, please find attached hereto the California Thoroughbred Trainers' proposed language for the sought-after revision. You will note, as follows:

1. The CTT proposal addresses the need for clarification of the governing procedures by clearly stating the particular disciplinary situation and the rules which will apply thereto. Everyone agreed at the committee meeting that the notice needed to be clarified.
2. The CTT proposal clarifies the application of Chapter 5 of the APA to those situations involving license revocation proceedings or Class 1, 2, or 3 Drug Violation Positives proceedings. This is in keeping with the overwhelming evidence received at the committee meeting in support of this rule.
3. The document has a box before each separate disciplinary situation. The filing investigator will merely check the box which applies to the particular case before serving the notice on the licensee. This helps clarify and streamline the applicable governing procedures.
4. Most all of the language in the CTT proposal is taken from the previous CHRB Governing Procedures language.

CTT feels the attached proposal best addresses, in a clear and concise manner, the issues raised during the previous committee meeting. The CTT proposal was prepared in collaboration with Darrell Vienna who was an integral part of the committee discussion and agrees to the proposal's form and content.

Should any questions persist, please feel free to contact me at your earliest convenience. Thank you in advance for your consideration in this matter.

Carlo Fisco
 General Counsel
 California Thoroughbred Trainers

GOVERNING PROCEDURES FOR DISCIPLINARY HEARINGS BEFORE THE BOARD OF STEWARDS OR HEARING OFFICER

1. Your matter will be heard before the Board of Stewards or a Hearing Officer. The term “Presiding Officer(s)” as used herein shall refer to the individual(s) who will hear your case whether it be the Board of Stewards or a Hearing Officer.
2. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.
3. You will have an opportunity to present you side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
4. You are entitled to be represented by an attorney at the hearing.
5. The hearing shall be open to the public.
6. All or part of the hearing may be conducted telephonically, to the extent that all parties agree, and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
7. If you believe that the Presiding Officer(s) is/are biased or prejudiced against you or has an interest in the outcome of the proceedings, you may challenge the Officer. Upon such challenge the Officer may recuse him/herself. If the Presiding Officer(s) choose/chooses not to recuse him/herself/themselves, you may put the decision to the Executive Director. If a Presiding Officer(s) is/are disqualified, another Presiding Officer will be appointed by the Executive Director as a replacement. The decision of the Executive Director regarding disqualification is final. You may challenge the decision regarding disqualification as a separate matter on appeal.
8. From the time that the Complaint and/or Notice to Appear issues until the Presiding Officer(s) render/renders its decision, you may not communicate, in any manner, directly or indirectly, with the Presiding Officer(s) regarding any issue in the proceeding, unless at the same time or before the time the communication is made, the communication is

shared with all parties to the proceedings including the CHRB, and an opportunity is afforded all parties to participate in the communication. This rule applies equally to the CHRB and its representatives.

9. You may request a subpoena for the production of witnesses or documents at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness or the production of documents at the hearing. The Presiding Officer(s) will decide disputes.
10. A verbatim record of the proceedings will be made, either using a shorthand reporter or a tape recorder. You may request a tape recording or a transcript of the hearing from the CHRB. It will be provided to you free of charge.

□ This Hearing does not involve revocation enforcement proceedings or enforcement proceedings alleging Class 1, 2, or 3 Drug Positive Violations

- A. The proceeding will be heard by the Presiding Officer(s) under the evidentiary provisions of Government Code §§ 11513, 11514 and 11515. Chapter 5 (Govt. Code §11500, et seq.), of the Administrative Procedures Act will not otherwise apply.
- B. You will receive a written decision after the hearing. The written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any. If the Board of Stewards acts as the Presiding Officer(s), they will take action upon a majority decision. In the event the decision is not unanimous, one or more dissenting or concurring decisions shall be filed. Each Steward shall file his/her own written decision or join in a written decision on the matter.
- C. If you timely appeal a decision, the matter will be heard on behalf of the CHRB by an administrative law judge, a referee, or a Hearing Officer designated by the CHRB. The designee will draft a proposed decision and submit it to the CHRB. On appeal, you bear the burden of proving the facts necessary to sustain the appeal. The CHRB will consider evidence that was presented at the initial hearing. It will also consider whether the Stewards mistakenly interpreted the law, whether new evidence of a convincing nature is produced, and whether the best interests of racing and the state may be better served by overruling the underlying decision.

☐ This Hearing involves revocation enforcement proceedings and/or enforcement proceedings alleging Class 1, 2, or 3 Drug Positive Violations

- A. Chapter 5 of the Administrative Procedures Act (Government Code §11500 et. seq.) except for the provisions of Chapter 5 that are inconsistent with Business and Professions Code §19517.5 will apply to this proceeding.
 - B. At the conclusion of the proceeding, the Presiding Officer(s) will draft a proposed decision and submit it to the CHRB. The CHRB may adopt, modify and adopt, or reject the proposed decision of the Presiding Officer(s). The CHRB's written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will include a description of the penalty imposed, if any.
 - C. If you are dissatisfied with the CHRB's decision with regard to a hearing involving revocation enforcement proceedings and/or enforcement proceedings alleging Class 1, 2, or 3 Drug Positive Violations, you may appeal that decision to the Superior Court.
-