BEFORE THE CALIFORNIA HORSE RACING BOARD

OF THE STATE OF CALIFORNIA

In the Matter of the Complaint against:

RONALD MCANALLY
Trainer, CHRB License #71630

Case No.: 20DM0068

DECISION

The attached Proposed Decision is adopted by the California Horse Racing Board as its Decision in the above-entitled matter, with the Proposed Penalty being a thirty (30) day suspension and one year probation period. If there are no further violations of California Horse Racing Board Rules and Regulations, 1843, 1843.6 and 1887 regarding Class 1, 2, or 3 drug substances, thirty (30) of the thirty (30) days of suspension are stayed; as provided by Government Code Section 11517 (c) (2) (B).

This Decision is hereby remanded to the Board of Stewards to issue a ruling and order for setting the dates of suspension.

IT IS SO ORDERED ON March 18, 2022.

CALIFORNIA HORSE RACING BOARD
Gregory L. Ferraro, DVM, Chairman

C. Scott Chaney

Scott Chaney
Executive Director

Patrick J. Kane
440 Stevens Ave., Suite 200
Solana Beach, California 92075
Telephone: (858) 381-7860

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

IN THE MATTER OF THE COMPLAINT AGAINST: **RONALD MCANALLY,** **Trainer,** **C.H.R.B. License No. 71630,** **Respondent.**	Case No.: 20DM0068 **PROPOSED DECISION RE: THE COMPLAINT FILED AGAINST RONALD MCANALLY** Hearing Date: December 10, 2021 Time: 9:00 a.m.

I. INTRODUCTION

This matter came for hearing on December 10, 2021 at 9:00 a.m. via video conference. Michelle Derieg recorded all testimony presented during the instant proceeding. Pursuant to California Horse Racing Board Rule 1414, Hearing Officer Patrick J. Kane ("Officer") presided over the Appeal.

Respondent Ronald McAnally ("Respondent") was present and represented by attorney Steve R. Schwartz. The California Horse Racing Board ("CHRB") was present and represented by attorney Anthony William Gomez.

The Appeal's evidentiary record closed at the conclusion of the proceedings on December 10, 2021 at approximately 10:20 a.m.

II. EXHIBITS ADMITTED INTO EVIDENCE

A. Exhibits Entered into Evidence by the Parties.

The Parties entered the following exhibits into evidence:

Exhibit "1"	CHRB Complaint against Ronald McAnally, Case No. 20DM0068;
Exhibit "2"	CHRB Complaint against Ronald McAnally and Deborah McAnally, Case No. 20DM0069;
Exhibit "3"	CHRB Official Veterinarian's Report, dated November 22, 2020;
Exhibit "4"	CHRB Acknowledgment of Test Sample;
Exhibit "5"	CHRB Test Sample Shipping Invoice, dated November 22, 2020
Exhibit "6"	Correspondence from Ben Moeller, PhD to Deborah Dugally, dated December 10, 2020
Exhibit "7"	Memorandum from Deborah Dugally to Scott Chaney, dated December 11, 2020;
Exhibit "8"	Email from CHRB Supervising Investigator Michael Barker to Ronald and Deborah McAnally, dated December 12, 2020;
Exhibit "9"	Positive Test Notification, dated December 12, 2020;
Exhibit "10"	CHRB Receipt for Property, dated December 18, 2020 and February 6, 2021;
Exhibit "11"	CHRB Report of Equine Drug Evidence Collected, Purchased, or Seized, dated December 18, 2020 and February 6, 2021;
Exhibit "12"	CHRB Request to Release Evidence, dated December 18, 2020;
Exhibit "13"	Positive Letter from the Texas Veterinary Medical Diagnostic Laboratory to CHRB, dated January 14, 2021;
Exhibit "14"	Notice of Continuance dated November 30, 2021;
Exhibit "15"	The Parties' Joint Stipulation Regarding Facts and Documents;
Exhibit "16"	CHRB Investigation Report dated May 2, 2021; and
Exhibit "17"	Stewards' Ruling No. 10, the Del Mar Thoroughbred Club Fall Meet, dated November 12, 2021.

III. LIST OF TESTIFYING WITNESSES

A. Witnesses Testifying on Behalf of Respondent.

Respondent called the following the witnesses:

- Daniel Landers;
- Ronald McAnally; and
- Michael Baker.

B. Witnesses Testifying on Behalf of the CHRB.

The CHRB did not call any witnesses.

IV. EVIDENTIARY ISSUES

Initially, Respondent's request to enter a newspaper article dated May 19, 2021 titled "New CHRB Transparency Issues Arise in McAnally CBD Investigation" is denied and stricken from the record because said article is irrelevant and lacks both authentication and foundation.

V. FACTUAL FINDINGS

After admitting all exhibits and testimony into evidence, this Officer makes the following findings of fact:

I.

At all relevant times, Respondent was the trainer of record for the horse, "Roses and Candy" (the "Horse") and Deborah McAnally was the Horse's owner. (Ex. 15 at ¶ 1.) Respondent has been training horses for approximately fifty-five years (55). (Hearing Transcript ("H.T.") at p. 23-24.)

II.

On November 22, 2020, the Horse won the third race at the Del Mar Thoroughbred Club located in Del Mar, California (the "Race"). (Ex. 15 at ¶ 2.) Immediately after the Race, a post-race blood and urine sample, labeled as No. DM16675, was taken from the Horse (the "Sample"), and sent to the testing laboratory at the University of California, Davis. (Ex. 15 at ¶ 3.) At all times, the Sample's chain of custody went uninterrupted. (See Ex. Ex. 15 at ¶ 13.)

III.

On December 10, 2020, the CHRB received the results of the Sample, which found the presence of 7-Carboxy-Cannabidiol ("CBD") in the Horse (the "Positive Test"). (Ex. 15 at ¶ 4, Ex. 6.) At the time the Horse tested positive, CBD was a prohibited drug substance classified as a Class 1 Substance, Penalty Category A. (Ex. 15 at ¶ 5-6.) However, effective July 26, 2021,

CBD was reclassified as a Class 3 Substance, Penalty Category B. (H.T. at p. 8-9.)

IV.

On December 12, 2020, the CHRB provided Respondent with notice of the Positive Test and advised Respondent that he could request a split sample analysis from a CHRB approved laboratory. (Ex. 15 at ¶ 7, Exs. 8-9.) On December 18, 2020, Respondent was personally served with notice of the Positive Test. (Ex. 14.)

V.

On December 17, 2020, CHRB investigators conducted an inspection of Respondent's stable located at Santa Anita (the "Inspection") and did not find any CBD in Respondent's barn. Ex. 15 at ¶ 8, Ex. 14, H.T. at p. 14-15, 37-38.) CHRB investigators spoke with Respondent's assistant trainer, Mr. Daniel Landers ("Landers"), who stated that Respondent does not use CBD on his horses and could not explain why the Horse tested positive for CBD. (Id.)

VI.

On December 18, 2020, CHRB investigators collected the following items from Respondent's barn: (1) one clear plastic bottle containing a green colored gel; (2) two clear plastic bottles containing Synovate; (3) three clear plastic bottles containing green colored pellets; and (4) four clear plastic bottles containing Actistatin (collectively, the "Items"). (Ex. 10, Ex. 15 at ¶ 9.) The CHRB then sent the Items to the testing laboratory at the University of California, Davis to determine if any of the Items contained CBD. (Ex. 15 at ¶ 9, Ex. 16.)

None of the Items tested positive for CBD. (Ex. 15 at ¶ 9, Ex. 16.)

VII.

Respondent subsequently requested the Positive Test's split sample (the "Split Sample") be sent to the Texas Veterinary Medical Diagnostic Center for additional testing. (Ex. 12, Ex. 15 at ¶ 10.) On December 30, 2020, the Texas Veterinary Medical Diagnostic Center received the Split Sample. (Ex. 13, Ex. 15 at ¶ 11.)

VIII.

On January 14, 2021, the Split Sample's results confirmed the presence of CBD in the Horse. (Ex. 13, Ex. 15 at ¶ 12.)

IX.

On or about February 6, 2021, CHRB investigator Mike Barker ("Barker") interviewed Geovanni Franco ("Franco"), the jockey who rode Roses and Candy during the Race. (Ex. 15 at ¶ 11.) Franco explained he uses Creekside CBD Oil for knee pain and occasionally used it in between races but he could not remember if he used CBD oil on the day of the Race. (Id., see also, H.T. at p. 32-33.) Franco stated he rides with fingerless gloves. (Ex. 15 at ¶ 11, Ex. 16.) Franco further stated he ceased using CBD oil immediately after learning of the Positive Test. (Id.)

Franco also provided the jar of Creekside CBD Oil he may have used when he rode the Horse during the Race to Barker who then sent the Creekside CBD Oil to the testing laboratory at the University of California, Davis. (Exs. 11, 15 at ¶ 14, Ex. 16.) The Creekside CBD Oil tested positive for CBD. (Id.)

X.

On or about May 5, 2021, the CHRB filed the instant Complaint against Respondent alleging he violated Cal. Code Regs. Tit. 4 §§ 1843(a),(d), 1843.1(a), and 1887(a) (the "Complaint"). (Ex. 3 at p. 1.)

XI.

On November 12, 2021, the Board of Stewards, pursuant to Cal. Code Regs. Tit. 4 § 1859.5, ordered Roses and Candy be disqualified of all purse monies earned from the Race due to the Positive Test (the "Disqualification Hearing"). (See, Ex. 17.)

XII.

On November 30, 2021, the CHRB, after providing Respondent's counsel a courtesy continuance, set the Complaint for hearing on December 10, 2021 at 9:00 a.m. via video conference. (Ex. 14.)

XIII.

Respondent has not had a single medication violation within the last thirty-six (36) months. (Ex. 16.)

V. CONTROLLING LAW

Initially, Business and Professions Code § 19581 ("Section 19581") states that "no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof."

Cal. Code Regs. Tit. 4 § 1887(a) ("Section 1887") separately provides in relevant part:

> The trainer is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties, except as otherwise provided in this article. If the chemical or other analysis of urine or blood test samples or other tests, prove positive showing the presence of any prohibited drug substance defined in Rule 1843.1 of this division, the trainer of the horse may be fined, his/her license suspended or revoked, or be ruled off. In addition, the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off.

Cal. Code Regs. Tit. 4 § 1888(c) ("Section 1888") states in pertinent part:

> A trainer or other person charged with a violation of Rule 1887 of this division may defend, mitigate or appeal the charge if…(c) [h]e shows, by a preponderance of evidence, that he made every reasonable effort to protect the horses in his care from tampering by unauthorized persons.

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

Cal. Code Regs. Tit. 4 § 1843 ("Section 1843") provides in relevant part:

> It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medications and drug substances foreign to the horse. In this context:
>
> (a) No horse participating in a race shall carry in its body any drug substance or its metabolites or analogues, foreign to the horse except as hereinafter expressly provided.
>
> …

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> (d) A finding by an official chemist that a test sample taken from a horse contains a drug substance or its metabolites or analogues which has not been approved by the Board, or a finding of more than one approved non-steroidal, anti-inflammatory drug substance or a finding of a drug substance in excess of the limits established by the Board for its use shall be prima facie evidence that the trainer and his/her agents responsible for the care of the horse has/have been negligent in the care of the horse and is prima facie evidence that the drug substance has been administered to the horse.

Cal. Code Regs. Tit. 4 § 1843.1(a) defines a "prohibited drug substance" as "any drug, substance, medication or chemical foreign to the horse, whether natural or synthetic, or a metabolite or analog thereof, whose use is not expressly authorized in this article."

Lastly, Cal. Code Regs. Tit. 4 § 1843.3 ("Section 1843.3") allows this Officer to deviate from the penalties set forth in Section 1843.3(d) if the following mitigating circumstances and/or aggravating factors are present:

> (1) The past record of the licensee regarding violations of Business and Professions Code section 19581; (2) the potential of the drug(s) to influence a horse's racing performance and the amount of the drug present; (3) the legal availability of the drug and whether the drug was prescribed to the horse by a California Horse Racing Board licensed veterinarian; (4) whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug; (5) the steps taken by the trainer to safeguard the horse; (6) the steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer; (7) the probability of environmental contamination or inadvertent exposure due to human drug use or other factors; (8) the purse of the race; (9) whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined and documented through the process described in Rule 1842 of this division; (10) whether there was any suspicious wagering pattern on the race; and (11) whether the licensed trainer was acting under the advice of a CHRB licensed veterinarian. (Code Regs. Tit. 4 § 1843.3(b)(1)-(11).)

VI. DISCUSSION

Initially, this Officer notes that the Board of Stewards took the first action required by Code Regs. Tit. 4 § 1859.5 (Disqualification Upon Positive Test Finding) by conducting the Disqualification Hearing. (See Ex. 17.)

Accordingly, this Officer must now determine whether Respondent is entitled to invoke the defense provided by Section 1888, and if not, whether Respondent is subject to the penalties prescribed by Section 1843.3(d).

A. Respondent's Defense to the Complaint.

In support of his position that a Section 1843.3(d) penalty should not be issued, or at least that a lesser penalty should be levied, Respondent testified on his own behalf and separately called Larsen and Barker to testify in support thereof.

1. Mr. Landers' Testimony.

Larsen has been Respondent's assistant trainer since 1995. (H.T. at p. 13.) Upon learning of the Positive Test, Larsen stated he took the following actions: (1) he contacted Respondent's veterinarian who stated that he or she had never used CBD on a horse; (2) he contacted at least fifteen (15) other individuals who had possibly come into contact with the Horse in the two weeks before the Race, with those individuals stating they had not used CBD recently; and (3) he sent the all the Items used in Respondent's barn to the testing laboratory at the University of California, Davis, all of which tested negative for CBD (H.T. at p. 14-15.) Larsen separately stated that Respondent's stable never used CBD for any purpose at any time. (Id. at 15.)

Larsen further testified approximately four or five days after learning of the Positive Test, Franco approached him to discuss his CBD use. (H.T. at p. 15, 16.) Franco allegedly told Larsen he used CBD oil on his shoulders and knees before he rode Roses and Candy in the Race. (H.T. at p. 14.) Larsen stated this was the first time he learned somebody who used CBD oil had come into contact with the Horse. (Id. at p. 17.) Larsen instructed Franco to speak with CHRB investigators concerning his use of CBD oil. (Id. at p. 14.)

Concerning whether Respondent had any prior drug positives, Larsen stated the last drug violation Respondent had occurred in 1996, when one of the horses had a "high Robaxin test." (H.T. at p. 18.) There was also a separate false positive concerning a horse named "Charming Legacy" who had a "high bute test." (Id.) However, Charming Legacy's high bute test was the result of the typographical error whereby the test's decimal point was in the wrong place. (Id.)

Finally, Larsen explained that if the Positive Test was not the result of Franco's CBD use then he did not know how or why the Horse tested positive. (H.T. at p. 21.) Specifically, at the time of the Race, Respondent only had three horses stabled at the Del Mar Thoroughbred Club and the only individuals at the barn during that meet were Respondent, Larsen, and Respondent's "groom." (Id.) Respondent's groom, who has worked for Respondent for 34 years, stated he did

not use CBD. (Id.)

2. Respondent's Testimony.

Respondent is 89 years old and has been training racehorses for over 55 years. (H.T. at p. 23-24.) Respondent was elected to racing's Hall of Fame in 1979. (Id. at p. 24.)

Concerning CBD, Respondent stated he and Larsen had never heard of CBD until receiving the Positive Test. (H.T. at p. 25.) Respondent explained that he never administered CBD to the Horse, much less instructed anyone acting on his behalf to do so. (H.T. at p. 26.) Rather, Respondent believes this is a case of environmental contamination likely resulting from Franco's use of CBD. (Id.)

3. Mr. Barker's Testimony.

Barker is the CHRB's supervising investigator assigned to Santa Anita and the Del Mar Thoroughbred Club. (H.T. at p. 32-33.) Barker was the investigating officer concerning the Positive Test and the Complaint. (Id. at p. 33.)

Barker stated he learned that Franco had used CBD leading Barker to conduct an interview with Franco. (H.T. at p. 33.) During this interview, Franco explained he used CBD oil on his knees as a "painkiller" and provided Barker with the CBD oil he had used for testing. (Id.) Barker subsequently submitted the CBD oil Franco provided, which tested positive for CBD. (Id. at p. 35.) After learning of the Positive Test, Franco ceased using CBD. (Id. at p. 37.)

Concerning Barker's December 17, 2020 inspection of Respondent's barn, he stated that he did not discover any violations and did not locate any CBD oil. (H.T. at p. 38.)

Finally, Barker stated that he has no facts leading him believe that: (1) Respondent knew of Franco's CBD use before the Positive Test; (2) Respondent administered CBD oil to the Horse; (3) Deborah McAnally, the Horse's owner, administered CBD oil to Roses and Candy; and (4) there are no other possible sources of the CBD oil besides Franco's admitted use. (H.T. at p. 37-38, 42.)

B. Whether Section 1888 Applies to this Appeal.

For reasons unknown, Respondent did not directly address his evidentiary burden under Section 1888, that Respondent took every reasonable effort to protect the Horse. Instead,

Respondent focused on whether the Positive Test was the result of environmental contamination, and the steps taken to determine why the Horse tested positive for CBD, *after receiving* the Positive Test. Accordingly, Respondent failed to sustain his evidentiary burden under Section 1888.

Because Respondent is the absolute insurer of the Horse pursuant to Section 1887, Respondent is responsible for the Drug Positive regardless of the acts of third parties.

C. Section 1843.3(b)'s Mitigating and/or Aggravating Factors.

Having found Respondent to be in violation of Section 1887, this Officer must determine whether any penalty should be levied, and if so, whether there are any mitigating circumstances and/or aggravating factors requiring deviation from the penalty guidelines set forth in Section 1843.3(d).

1. Respondent's Past Record of Medical Violations.

Respondent's past record of medical violations is spotless, with zero medication violations in the last 36 months, while Respondent's last medication violation allegedly occurred in 1996. H.T. at p. 18.) Accordingly, this Officer finds this factor to be mitigating.

2. The Potential of the Drug to Influence a Horse's Racing Performance and the Amount of the Drug Present.

No evidence as to the effects CBD has on horse's racing performance was presented by either the CHRB or Respondent. Accordingly, this Officer finds this factor to be neutral.

3. The Legal Availability of the Drug and Whether the Drug was Prescribed by a Licensed Veterinarian.

CBD oil is widely available for purchase without a prescription and is currently classified as a Class 3, Penalty Category B prohibited drug substance. Accordingly, this Officer finds this factor to be aggravating.

4. There is Reason to Believe the Responsible Party Knew of the Administration of the Drug.

There is no evidence that Respondent intentionally administered CBD to the Horse. Accordingly, this Officer finds this factor to be a mitigating circumstance.

5. The Steps Taken by the Trainer to Safeguard the Horse.

While Respondent did not meet the evidentiary burden Section 1888 requires, this Officer notes that Respondent did explain that: (1) only he and two other employees have contact with Respondent's horses; (2) neither Respondent nor his two employees had come into contact with CBD before the Race; and (3) all Items Respondent uses on his horses were tested for the presence of CBD with each Item testing "negative" for CBD.

Accordingly, this Officer finds this factor to be neutral.

6. Steps taken by the Owner to Safeguard Against Subsequent Medication Violations.

This factor is clearly a mitigating circumstance as Respondent presented admissible evidence that: (1) he had all Items used in his barn tested negative for CBD; (2) spoke to at least fifteen (15) different individuals who came into contact with the Horse to determine if said individuals had used CBD recently, none of whom admitted to using CBD recently; (3) no CBD was found at Respondent's stable during the CHRB investigators' search of Respondent's "barn"; and (4) the CHRB investigators found no other violations during Respondent's "barn search."

Accordingly, this factor is found to be mitigating.

7. The Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors.

This factor is a mitigating circumstance as there is evidence that the Positive Test was the likely the result of environmental contamination and/or inadvertent disclosure. Specifically, Respondent presented indisputable evidence that Franco, who rode Roses and Candy during the Race, admitted to using CBD oil to both CHRB investigators and Respondent. And, Respondent's subsequent investigation, including testing all Items used in Respondent's barn as well as interviewing fifteen different individuals, failed to provide any separate reason as to why the Horse tested positive for CBD.

Accordingly, this Officer finds this factor to be a mitigating circumstance.

8. The Purse of the Race.

The purse of the race was as not excessive, and thus, this factor is a mitigating

circumstance.

9. Whether the Drug Found to be Present in the Official Test Sample was One for which the Horse was Receiving Treatment.

The Horse was never prescribed CBD, and thus this Officer finds this factor to be aggravating.

10. Suspicious Wagering Patterns.

There is no evidence of any unusual wagering patterns on the Race, and thus this factor is a mitigating circumstance.

11. Whether the Licensed Trainer was Acting Under the Advice of a CHRB Licensed Veterinarian.

There is no evidence of a licensed veterinarian advising and/or approving the administration of CBD to Roses and Candy. Accordingly, this Officer finds this factor to be aggravating.

12. Conclusion.

A review of the factors set forth in Section 1843.3(b) reveal there to be: (a) six (6) mitigating factors; (b) three (3) aggravating factors; and (c) two (2) neutral factors. Thus, Section 1843's mitigating circumstances outweigh its aggravating factors. However, in analyzing the evidence presented, the Positive Test likely resulted from inadvertent exposure by "human drug use."

Specifically, circumstantial evidence reveals that Franco regularly used CBD oil to help with knee pain and likely used it the day he rode Roses and Candy in the Race. Moreover, Franco stated he uses fingerless gloves when riding, which could be how Franco inadvertently exposed the Horse to CBD. Importantly, there was no way Respondent could have known that Franco had used CBD as: (1) Franco did not inform Respondent of his CBD use at any time before the Race or receiving the Positive Test; and (2) Respondent is not permitted to be in the jockey's room on race day where Franco would have applied the CBD oil on the day of the Race.

It is further noted that all products used in Respondent's barn tested negative for the presence of CBD while neither Respondent nor his two employees admitted to using CBD at any

time. Additionally, Respondent's impeccable record free of medical violations/overages, with the only noted violation being in 1996, further supports a finding that any penalties provided by Section 1843.3(d) should be stayed. It makes no sense that an 89-year-old trainer, or his 72-year-old assistant, decided to administer CBD, a drug there is no evidence that they even knew existed, to the Horse after being violation free for almost three decades.

Simply put, the Positive Test was more than likely the result of environmental contamination that was not the fault of Respondent. However, the Horse tested positive for CBD meaning Respondent violated Section 1887 as Respondent "is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties"

Accordingly, this Officer recommends that Respondent be suspended thirty days (30) pursuant to Section 1843.3(d)'s penalty guidelines[1], without the imposition of any monetary fine. However, this Officer further recommends that the proposed thirty-day (30) suspension be stayed in accordance with the below. Doing so allows the CHRB to reinstate any suspension stemming from the Positive Test should Respondent subsequently violate Cal. Code Regs. Tit. 4 §§ 1887(a), 1843, or 1843.1.

VII. CONCLUSION

WHEREFORE, it is hereby recommended that Respondent be suspended thirty days (30), without imposing any sort of monetary fine against Respondent.

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[1] While CBD was listed as a Class 1, Category A penalty at the time of the Positive Test, the subsequent classification of CBD to a Class 3, Category B Penalty, effective July 26, 2021 controls. (See e.g. *People v. Marquez* (2017) 11 Cal.App.5th 816, 824, quotations omitted, ["'Legislative mitigation of the penalty for a particular [violation] called for the retroactive application of the reduced penalty, effectively establishing a rule that any law reducing the penalty for a [violation] was intended to apply to all nonfinal judgments."].)

However, the entire thirty-day (30) suspension shall be stayed provided that Respondent does not violate Cal. Code Regs. Tit. 4 §§ 1887(a), 1843, or 1843.1 concerning any Class 1, 2, or 3 substances during the term of his probation. If Respondent violates any condition of his probation, the above referenced thirty day (30) stay of suspension shall be lifted and shall be re-imposed after proper notice and hearing.

Dated: March 8, 2022

Patrick J. Kane
Hearing Officer