

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICHARD E. DUTROW, Jr.,

Plaintiff,

COMPLAINT

-against-

___ - Civ. - ___ ()

THE NEW YORK STATE GAMING COMMISSION,
successor in interest to THE NEW YORK STATE RACING
AND WAGERING BOARD, JOHN SABINI, in his official
and individual capacities, DANIEL D. HOGAN, in his official
and individual capacities, CHARLES J. DIAMOND, in his
official and individual capacities, THE ASSOCIATION OF
RACING COMMISSIONERS INTERNATIONAL,
and JOHN and JANE DOES, said names being fictitious
and unknown to the Plaintiff,

Defendants.

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Plaintiff RICHARD E. DUTROW, Jr. (hereinafter “Plaintiff” or “Dutrow”), by his
attorneys, McLAUGHLIN & STERN, LLP, and LAW OFFICES OF MITCHELL C. ELMAN,
P.C., as and for his COMPLAINT, upon information and belief, allege the following:

INTRODUCTION

This is a civil action for monetary damages and equitable relief, as further specified
below, for violations of Plaintiff’s due process rights, pursuant to 42 U.S.C. §1983 *et seq.*
 (“Section 1983”) and the Fourteenth Amendment, and for prima facie tort under the law of the
State of New York.

Plaintiff has been substantially and irreparably harmed by a determination and order of
The New York State Racing and Wagering Board (“RWB”), which revoked Plaintiff’s horse
training license for 10 years, which effectively acts as a lifetime ban, and fined him \$50,000.00.

For more than 20 years, and until January 17, 2013, Plaintiff had earned his livelihood as a licensed thoroughbred horse trainer in New York. In a concerted effort to end Plaintiff's career, Defendant John Sabini ("Sabini"), acting as both Chairman of the RWB and as a member of the Board of Directors and Chairperson of the Board-Elect of The Association of Racing Commissioners International ("ARCI"), acted in concert with certain officers and members of ARCI to ensure Dutrow's training license would be revoked, and in doing so, deprived Dutrow of due process under the law, and engaged in wrongful and malicious actions against him that constitute prima facie tort under the law of the State of New York.

The RWB, a New York state governmental agency, is charged with regulating all aspects of thoroughbred horse training and racing in New York, and as such, is responsible for licensing trainers, such as Dutrow.¹ The ARCI, a not-for-profit organization organized under the laws of Kentucky, is an association of state governmentally sanctioned racing commissions, including the New York and Kentucky commissions, as well as its members or employees of such commissions, and is responsible for, among other things, horseracing regulation throughout the various states. In February 2011, ARCI committed an extraordinary act, in that it singled out Richard Dutrow and demanded – in a letter to the RWB, and publicly through a press release – that the RWB commence a proceeding to revoke his license. This letter and press release followed only a few months after the RWB had renewed Dutrow's license, according to its own standards and regulations, but had been criticized for being too lenient on Dutrow.

At the time ARCI made the determination to demand the revocation of Dutrow's license, Sabini served not only as the Chairman of the RWB – to whom the letter and press release were

¹ The RWB has since merged with The New York State Division of Lottery to form The New York State Gaming Commission ("Gaming Commission"), effective February 1, 2013. Upon information and belief, Sabini has been the only member of the RWB that the Governor did not reappoint to a position on the Gaming Commission.

addressed – but also served on the Board of Directors, Executive Committee, and as Chairperson of the Board-Elect of ARCI. In such position, Sabini knew or should have known that ARCI had officially determined that Dutrow’s license in New York should be revoked. Furthermore, the determination to demand that the RWB revoke Dutrow’s license was made by state officials, including those from New York and Kentucky, who maliciously acted through ARCI to send the letter to the RWB and issue the press release in furtherance of their objective.

In support and furtherance of ARCI’s determination to have Dutrow’s license revoked, on March 2, 2011, the RWB issued an Order to Show Cause seeking exactly what the ARCI wanted. The RWB’s hearing on the Order to Show Cause was also structured in such a way as to achieve the preordained result – the revocation of Dutrow’s license. Sabini was both accuser (through ARCI) and judge and executioner (through the RWB). The RWB used the recommendation of ARCI that it look into Dutrow’s entire career history to support a finding that “in the best interest of racing” Dutrow be removed from the industry. At no time throughout the proceedings did Sabini recuse himself, despite his inextricable involvement with accuser, ARCI, and judge, RWB. Throughout the entire contrived process there was no opportunity for a full and fair hearing on Sabini’s impropriety, and no record was developed in order to ensure that Dutrow’s right to due process was safeguarded.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343 by virtue of claims under Section 1983 and the Fourteenth Amendment, and supplemental jurisdiction over the New York State prima facie tort claim pursuant to 28 U.S.C. § 1367(a).

2. Jurisdiction to grant declaratory judgment is conferred by 28 U.S.C. §§ 2201, 2202.

3. This Court has personal jurisdiction against all non-resident defendants pursuant to § 302 of the New York Civil Practice Law and Rules (“C.P.L.R.”) because they transacted business within New York, committed tortious acts within New York; committed tortious acts outside of New York causing injury to Plaintiff and his property within New York and engaged in persistent courses of conduct in New York; and because they expected or should have reasonably expected that their acts would have consequences in New York and they derive substantial revenue from interstate commerce.

4. Venue properly lies in this judicial district pursuant to 28 U.S.C. §1391(b), in that, for purposes of this section, one or more Defendants reside there, and a substantial part of the events constituting Plaintiff’s claims have taken place within this judicial district.

PARTIES

5. Plaintiff, Dutrow, 53 years of age, is a resident of the State of New York and, until January 17, 2013, had worked as a licensed thoroughbred horse trainer in New York for more than 20 years, with his principal place of business located at Aqueduct Racetrack in South Ozone Park, New York (“Dutrow’s Barn”). Training horses had been Dutrow’s livelihood and source of income.

The Association of Racing Commissioners International (ARCI)

6. On information and belief, Defendant ARCI is an association of legally constituted state governmental racing boards, racing commissions, racing regulation agencies, and private, non-governmental organizations with the legal authority to regulate the racing industry within a governmental jurisdiction, by its acting members, be they commissioners, board members and/or state regulators.

7. ARCI's purported purpose is to coordinate activities and licensing standards in the various states, and to otherwise promote thoroughbred racing.

8. Among ARCI members are commissioners or officials of The Kentucky Horse Racing Commission ("KHRC") and the RWB.

9. The ARCI is run by its Board of Directors and Officers, comprised of a President, Chairperson of the Board, and Chairperson of the Board-Elect, and otherwise through its Executive Committee, which is vested with the authority to act on all matters referred to it by the Board of Directors.

10. Upon information and belief, at all relevant times, Edward Martin ("Martin") was President of ARCI, ex officio member of its Board of Directors, and member of its Executive Committee.

11. Upon information and belief, at all relevant times, John Sabini ("Sabini"), Chairperson of the RWB, a state agency, was a member of the Board of Directors of ARCI, Chairperson of the Board-Elect, and member of the Executive Committee.

12. Upon information and belief, at all relevant times, John Doe and/or Jane Doe, whose names are as yet unknown, were members or officials of state agencies and active members of ARCI.

The New York State Racing and Wagering Board (RWB)

13. Defendant RWB, now known as the New York State Gaming Commission, was a New York state agency that oversaw thoroughbred racing in New York, and was responsible for licensing trainers in New York, including Plaintiff, Dutrow.

14. The RWB's Horse Racing Facility Office for Aqueduct Racetrack is located in Jamaica, New York.

15. The RWB is comprised of three members, and at all relevant times, defendant Sabini was its Chairperson, concurrent with his role as member of the Board of Directors, Chairperson of the Board-Elect, and Executive Committee of ARCI.

16. At all relevant times, defendant Daniel D. Hogan (“Hogan”) served as a member of the RWB.

17. At all relevant times, defendant Charles J. Diamond (“Diamond”) served as a member of the RWB.

18. At all relevant times, Rick Goodell (“Goodell”) served as Assistant Counsel to the RWB, as well as a member of the Regulatory Attorneys Committee of ARCI.

FACTS COMMON TO ALL CAUSES OF ACTION

19. On February 16, 2011, following an accusation against Dutrow for possessing syringes, purportedly discovered in Dutrow’s Barn, and administering a legal drug to a racing horse – accusations which Dutrow denied – the stewards of the RWB imposed a 90-day suspension against Dutrow.

20. Under New York State’s racing regulations, the penalty imposed by the racing stewards for these violations included the maximum penalty permitted.

21. Dutrow appealed the stewards’ findings, and the 90-day suspension was stayed pending this appeal.

22. On February 17, 2011, Martin, President of ARCI, brought to Sabini’s attention recent criticism by a government official that the RWB’s 90-day suspension was too lenient a penalty based on Dutrow’s history.

23. On information and belief, certain officers and members of ARCI, including Sabini, who served as a member of the Board of Directors and Chairperson of the Board-Elect of ARCI,

met and approved a plan to petition the RWB, of which Sabini served as Chairman, to review Dutrow's training license to determine his suitability to continue his participation in horseracing.

24. On that same day, by letter dated February 17, 2011, ARCI urged the RWB to commence a proceeding to review the licensure of Dutrow by order to show cause as to why Dutrow's license should not be revoked (the "ARCI Letter").

25. The ARCI Letter was sent by Martin as President of ARCI, who also served with Sabini as, *ex officio*, a member of ARCI's Board of Directors, and on the Executive Committee.

26. On that same day, ARCI also issued a press release concerning its letter to the RWB, in which, among other things, ARCI publicly called for a "determination" of Dutrow's license, and to "examine Dutrow's career in racing to see if sufficient evidence exists to say enough is enough" (the "ARCI Press Release").

27. On information and belief, Sabini, as well as other officers of the ARCI, were aware of and authorized, and/or took action to approve, the ARCI Letter and ARCI Press Release.

28. For all intents and purposes, Defendants' and Sabini's organization, ARCI, of which Sabini served as Chairperson of the Board-Elect, demanded that Sabini's organization, RWB, of which Sabini was the ultimate decision-maker, along with its two other members, Hogan and Diamond, proceed to revoke Dutrow's license.

29. Supported by, and in furtherance of the ARCI's determination to have Dutrow's license revoked, as set forth in the RCI Letter and Press Release, on March 2, 2011, the RWB issued an Order to Show Cause seeking revocation of Dutrow's license.

30. The Order to Show Cause issued by the RWB was undertaken in order to implement the plan conceived of and reflected in the ARCI Letter and Press Release – to have Dutrow's license revoked and his career destroyed in the process.

31. Sabini, as Chairman of the RWB, also participated substantially in the revocation process under the RWB.

32. Sabini appointed a hearing officer, who subsequently refused to hear or decide Dutrow's allegations that Sabini's appearance in the matter presented a conflict because of his relationship and involvement with ARCI.

33. Unbeknownst to Dutrow or his counsel at the time of the hearing, Goodell, who, as noted above, served as Assistant Counsel to the RWB, and who was also a member of the Regulatory Attorneys Committee of ARCI, was in contact with, and on information and belief, acted on behalf of, ARCI and RWB to revoke Dutrow's license.

34. Although Dutrow's attorney raised Sabini's apparent conflict to the hearing officer and Sabini, Dutrow was denied the opportunity to fully and fairly develop a record, or pursue through a hearing, the improper actions taken by ARCI and Sabini, and the decision to bring charges against him by order to show cause, because neither the hearing officer nor the RWB permitted him to create a meaningful record on the issue.

35. The hearing officer found against Dutrow, and the RWB adopted the hearing officer's findings and determined to revoke Dutrow's license for 10 years, ban him from all racetracks throughout the State of New York, as well as to impose a \$50,000.00 penalty upon him ("Order").

36. On information and belief, Hogan and Diamond, the other members of RWB, knew Sabini's involvement with ARCI and the decision to prosecute Dutrow supported by, and in furtherance of, the ARCI Letter and ARCI Press Release, and condoned the subsequent acts and Order which revoked Dutrow's license.

37. Contemporaneously with the New York proceedings, the KHRC, by its Executive Director Lisa Underwood (“Underwood”), who was also a member of the Board of Directors and on the Executive Committee of ARCI with Sabini, cooperated with the ARCI determination to end Dutrow’s career elsewhere as well.

38. Consistent with ARCI’s objective, in or about April 2011, KHRC subjected Dutrow to the extraordinary act of having to attend a hearing to determine if it should issue a Kentucky training license even before he applied.

39. On April 13, 2011, the same day Dutrow applied for a Kentucky license, and the KHRC conducted its hearing, it denied Dutrow’s application for a license in Kentucky.

40. On information and belief, members of the KHRC, including Underwood, as well as the RWB, including Goodell, coordinated their acts to have Dutrow’s training licenses revoked in Kentucky as well as New York.

41. On information and belief, other persons and/or entities, as yet unknown to Plaintiff, but associated with ARCI, RWB and KHRC, also discussed, communicated, coordinated and determined to have Dutrow’s license revoked in both New York and Kentucky.

42. Dutrow appealed the RWB’s findings and order to the Supreme Court of the State of New York, Appellate Division, Third Department, (“Appellate Division”) in a proceeding brought pursuant to Article 78 of the C.P.L.R.

43. The record on appeal was limited, as a matter of law, to the record made before the hearing officer and RWB, which did not contain a full and fair hearing on the impermissible involvement of Sabini, his bias, and his involvement with ARCI in the proceedings.

44. Based upon the limited record before it, the Appellate Division affirmed the RWB’s findings.

45. Dutrow then appealed the Appellate Department's decision and order to the New York State Court of Appeals, which dismissed the appeal, *sua sponte*, upon the ground that no substantial constitutional question was directly involved.

46. On January 17, 2013, all stays having expired, the penalty imposed upon Dutrow by the RWB took effect. Plaintiff's license was revoked and he was barred from Dutrow's barn and from all racetracks in the State of New York, thereby causing him immediate and ongoing substantial damage.

47. By reason of the revocation of his license as of January 17, 2013, Dutrow is no longer licensed to train thoroughbred horses in the State of New York. Dutrow is also banned from ever having a training license for the next 10 years, which is effectively a lifetime ban, as he will be approximately 63 years of age when eligible to reapply for a license. Dutrow is further banned from the privileges and use of the grounds of any racetrack throughout New York State, and from associating with those who do use the racetracks which include his mother, brother and girlfriend. In addition to the foregoing, Dutrow was fined \$50,000.00.

48. But for the malicious and wanton acts of ARCI, in concert with Sabini, and the decisions made therein, RWB would not have initiated proceedings to revoke Dutrow's license and he would only have a ninety day suspension.

49. As a result of ARCI's actions, and Sabini's acquiescence, in concert with the officers of ARCI, and the members of the RWB, Dutrow has suffered irreparable harm and economic damages in the loss of his career, reputation and livelihood.

AS AND FOR A FIRST CAUSE OF ACTION
(Section 1983)

50. Plaintiff repeats and realleges each and every allegation set forth in paragraphs "1" through "49" as if set forth more fully herein.

51. The RWB is empowered by State law to regulate the licensing of thoroughbred horse trainers. The RWB has the power to grant training licenses, as required by State law, and to revoke training licenses, as it did to Dutrow.

52. Prior to the RWB's decision to revoke Dutrow's training license, Dutrow had recently renewed that license before that very same entity. The RWB granted Dutrow's application for a training license in August 2011, upon a finding that the "financial responsibility, experience, character and general fitness of the applicant are such that the participation of the applicant will be consistent with the interest, convenience or necessity and with the best interests of racing generally."

53. Dutrow had a property interest in his training license, and therefore, as afforded to him under the Fourteenth Amendment, Dutrow could not be deprived of that property without due process under the law.

54. The Defendants acted under color of state law and in concert with one another when they planned to revoke, and did revoke, Dutrow's training license, thus depriving him of his property interest without due process under the law.

55. Plaintiff was denied due process under the law when the Defendants, acting under color of state law, undertook a proceeding against Dutrow, which was calculated to have his license revoked, and Sabini was a participant in the decision of ARCI to cause Dutrow's license to be revoked.

56. Sabini's actions, taken together with the actions of the other Defendants, were designed to deprive Plaintiff of his training license without due process because Sabini was on both sides of the equation (prosecutor and decision maker).

57. The RWB, and its individual members, Sabini, Hogan and Diamond, caused Plaintiff's deprivation by issuing the Order to Show Cause based on ARCI's demand that it revoke Dutrow's training license.

58. The ARCI and its members' actions were inextricably entwined with those of Sabini and the RWB, in that they engaged in these extraordinary acts together in their capacities as both ARCI members and members of the RWB and KHRC. In fact, the RWB attorney (Goodell) who wrote a letter denying that Sabini had an irreconcilable conflict was, at the same time, counsel to ARCI.

59. On information and belief, certain members of the Board of Directors of ARCI, its Executive Committee, and Officers, who are themselves state commissioners and executive directors of racing commissions and boards, sought to have Sabini and the RWB revoke Dutrow's license.

60. The decision to revoke Dutrow's license was made at ARCI by its members, on information and belief, including Sabini in his capacity as Chairperson of the Board-Elect, and implemented by Sabini in his capacity as Commissioner of the RWB.

61. The officers of the ARCI, on information and belief, together with Sabini, acted to approve the ARCI Letter for transmittal to the RWB, and approved the ARCI Press Release for publication, which had, in fact, been sent to the RWB, published and then acted upon.

62. Sabini thereafter, in his capacity as Commissioner of the RWB, supported by ARCI's Letter and Press Release, adopted the plan to revoke Dutrow's training license. The RWB, together with Sabini in his capacity as Commissioner, and its members, Hogan and Diamond, acted on the ARCI Letter and ARCI Press Release, and issued an Order to Show Cause as to why Dutrow's training license should not be revoked.

63. Dutrow was denied a fair process where the discretion of Sabini and the RWB to impose a fair penalty had been unreasonably affected by the actions of ARCI while Sabini was its Chairperson of the Board-Elect.

64. The Defendants, including Sabini, acted to ensure that Sabini's bias and impropriety would not be apparent throughout the proceedings.

65. Both the hearing officer appointed by Sabini, and Sabini himself, refused to hear or make a determination on the record on Dutrow's claim that Sabini was biased and/or had an irreconcilable conflict of interest based upon his relationship with ARCI, as well as his actions with respect to the ARCI Letter and ARCI Press Release.

66. The RWB refused to create a record upon which the Appellate Division could review the allegation of Sabini's bias and conflict of interest within the already limited context of an Article 78 proceeding.

67. The proceedings were otherwise tainted in order to achieve the preordained result of revoking Dutrow's license.

68. On information and belief, Sabini, together with the individual defendants of ARCI, acted with malice towards Dutrow in that they willfully disregarded Dutrow's constitutional right to due process in order to achieve their predetermined objective of stripping Dutrow of his training license and career.

69. Plaintiff's right to due process has been violated by Defendants' ability and decision to discretionarily bring charges against him so as to be able to revoke his training license.

70. Plaintiff's right to due process has been further violated by Sabini and the RWB's decision to conduct a hearing detrimental to Plaintiff's ability to defend himself.

71. Plaintiff's right to due process has been further violated by Sabini and the RWB's discretionary imposition of sentencing that would be able to result in the penalty demanded of it by the ARCI.

72. Plaintiff's right to due process has been further violated by Sabini and the RWB's refusal to hold a hearing to create and full and fair record regarding Sabini's bias and conflict of interest.

73. As a result, Dutrow has suffered an irreparable loss of his career and damage to his reputation.

74. Dutrow has suffered substantial monetary loss due to the denial of due process, revocation of his training license, and damage to his reputation and career.

75. By reason of the foregoing, Defendants have violated Dutrow's right to due process, and Section 1983, and Plaintiff has been damaged in the amount not less than \$10,000,000.00.

AS AND FOR A SECOND CAUSE OF ACTION
(Injunction Under Section 1983)

76. Plaintiff repeats and realleges each and every allegation set forth in paragraphs "1" through "75" as if set forth more fully herein.

77. The RWB and Sabini improperly revoked Dutrow's license by depriving him of due process under the law, and as a result, Dutrow has been irreparably harmed in his career and reputation as a horse trainer. Based upon certain reciprocity rules, Dutrow cannot practice his trade in other states as well.

78. As a result of the RWB's Order, which became effective on January 17, 2013, Dutrow's license is suspended for 10 years. Consequently, Dutrow is not permitted to apply for any license before the RWB for 10 years, or until January 17, 2023.

79. The RWB's Order also bans Dutrow from directly or indirectly participating in New York pari-mutuel horseracing during the time of his ban. Dutrow has been further denied any privileges or use of the grounds of all racetracks throughout New York State during that time.

80. Any and every horse Dutrow becomes involved with during the 10 years his license is revoked, either by training, or making arrangements for its training, or otherwise providing advice or information on any aspect of the training of the horse, disqualifies the horse from any racetrack throughout New York State.

81. The Order, in effect, also acts as a prohibition against Dutrow associating with any individuals who use the racetracks of New York State, including his family members, who are trainers and horse owners.

82. The prohibitions against Dutrow in New York State also affect his ability to use racetracks, train horses, or associate with individuals who use racetracks in other jurisdictions.

83. Dutrow has no adequate remedy at law because he is forbidden from using New York State racetrack facilities, or training horses in New York State, or associating with individuals, including his family, who are connected to the racetracks in New York State.

84. By reason of the foregoing, Plaintiff seeks a declaratory judgment, finding that Defendants' acts violated the provisions of 42 U.S.C. § 1983, and prospectively enjoining Defendants from restraining Plaintiff from: (a) the use and privileges of the racetracks throughout New York State, (b) training horses for the use and privileges of the racetracks throughout New York State, and (c) associating with individuals and family members who enjoy the use and privileges of the racetracks throughout New York State.

AS AND FOR A THIRD CAUSE OF ACTION
(New York Prima Facie Tort)

85. Plaintiff repeats and realleges each and every allegation set forth in paragraphs “1” through “84” as if set forth more fully herein.

86. Defendant RWB is empowered by State law to grant and revoke licenses to individuals to own, train and race thoroughbred horses, and engage in pari-mutuel horse racing, on racetracks throughout the State of New York.

87. Continually for the past 20 years, up until January 17, 2013, Plaintiff had earned a living by training and racing horses on the racetracks overseen, licensed and regulated by the RWB.

88. Commencing on March 2, 2011, supported by, and in furtherance of, the ARCI Letter and Press Release calling for the review of Dutrow’s history before the RWB and revocation of his license, the RWB issued an Order to Show Cause why Plaintiff’s license should not be revoked.

89. Throughout the course of the proceedings, the RWB, and specifically, Sabini and the hearing officer (who was appointed by Sabini), refused to hear Dutrow or create a record on his claims, that the proceedings were tainted, from the initiation of charges to the final judgment and execution, by Defendants’ patent bias and animus towards him, as exemplified by the ARCI Letter and ARCI Press Release, and the actions taken by the Defendants pursuant to and in furtherance thereof. In fact, when confronted with an allegation of bias, Sabini did not directly respond. Instead, Goodell (who was also counsel at ARCI) responded on his behalf denying any bias.

90. The Defendants acted intentionally and malevolently to cause harm to Dutrow's license and his career, in that they demanded that the RWB revoke Dutrow's license, and the RWB did revoke Dutrow's license.

91. The Defendants acted maliciously and wantonly to punish Dutrow, and their acts were taken to obtain ARCI's preordained result – to have his license revoked and have him banned from horseracing in and throughout New York.

92. The Defendants' acts were without justification and contrary to law, in that, prior to the commencement of the proceedings on the Order to Show Cause, in August 2011, the RWB renewed Dutrow's license based upon the same "best interest of racing" standard, which the RWB subsequently used to revoke his license a few months later.

93. On October 12, 2011, the RWB issued its Order, which had been stayed pending all appeals.

94. The Order became effective on January 17, 2013, thereby causing from that date immediate and ongoing substantial damage to Plaintiff.

95. As a result of the Defendants' acts and resulting Order, on January 17, 2013, Dutrow's training license was revoked for a period of 10 years. Since that time Dutrow is prohibited from applying for any license before the RWB for a period of 10 years.

96. Dutrow has also, since January 17, 2013, been prohibited from directly or indirectly participating in New York pari-mutuel horse racing, and the privileges and use of the grounds of all racetracks in the State of New York for the next 10 years. This prohibition extends to any horses owned or trained by Dutrow, which are also prohibited from all New York racetracks.

97. Dutrow was fined \$50,000.00 for the two alleged underlying violations.

98. Dutrow has been compelled to expend attorneys' fees and costs in an amount not presently capable of being ascertained.

99. As a result of the Defendants' foregoing acts, Plaintiff has sustained special damages, including, but not limited to, (a) loss of present and future earnings in an amount not less than \$10,000,000.00, (b) a fine of \$50,000.00, and (c) attorneys' fees in an amount not presently capable of being ascertained.

WHEREFORE, the Plaintiff requests that this Court issue a judgment granting the following relief:

1. On the First Claim For Relief:

- (a) Awarding Plaintiff damages as follows:
 - (i) damages in an amount not less than \$10,000,000.00;
 - (ii) punitive damages in an amount not less than \$10,000,000.00; and
 - (iii) attorneys' and expert fees and costs and expenses in an amount not presently capable of being ascertained

2. On the Second Claim For Relief:

- (a) A declaratory judgment finding that Defendants have violated the provisions of 42 U.S.C. § 1983, *et seq.*;
- (b) A prospective mandatory injunction directing Defendants to vacate the Order and cease their unlawful practices described herein; and
- (c) attorneys' and expert fees and costs and expenses in an amount not presently capable of being ascertained.

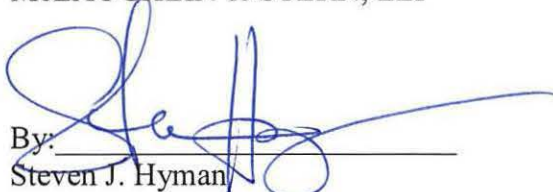
3. On the Third Claim For Relief:

- (a) Awarding Plaintiff special damages as follows:


- (i) damages for loss of present and future earnings in an amount not less than \$10,000,000.00;
- (ii) damages for the fine imposed in the amount of \$50,000.00; and
- (iii) attorneys' and expert fees and costs and expenses in an amount not presently capable of being ascertained

Dated: New York, New York
February 25, 2013

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