

September 8, 2014

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RE: Third Party Adjudication

I have been retained by the California Academy of Physicians Assistants (CAPA) to provide impartial third party adjudication services in the matter of Mr. Andrew Beranl. Over the past forty years I have served as the chief (paid) executive officer of four non-profit membership associations, both large and small, and also have served from the other side as a volunteer board member of several organizations, including the American Society of Association Executives, and have chaired the board of three of them. I feel well-qualified to make an impartial decision. I do not personally know any of the officers, directors, or staff members of CAPA and did not know anything about the organization prior to you contacting me. I do not have a personal or business relationship with you, although I have seen you speak at a few events.

On September 2, 2014 you delivered to me materials from your office and CAPA, and a sealed (unopened) USPS Priority Mail envelope from Mr. Bernal, which contained a sealed (unopened) envelope with the materials he submitted. I have subsequently given you a copy of the contents of Mr. Bernal's envelope.

In reviewing all of the materials submitted, Mr. Bernal has some legitimate questions regarding the election procedures of CAPA, especially that of the Nominating Committee endorsing candidates and then openly promoting their election. This, however, is a decision of the organization's leadership and I understand that the organization has had the Nominating Committee endorse candidates for decades and that it does not violate any federal or state laws regulating non-profit organizations.

Mr. Bernal's demands for a financial audit of the organization do not need to be accepted by the board, especially since there are written opinions from the association's accounting firm and attorney that an audit is unnecessary. If an association were forced to conduct an audit every time a member demanded it, that alone could take up the entire resources of the organization.

Mr. Bernal states that the ballots from the election were counted by the association's CPA firm, which I think is a very good policy rather than having members or staff involved, and that because the firm is paid by the association it is improper. First, if an outside firm was engaged, they still would have to be paid, causing the same problem, and more importantly, CPA firms should be viewed as above reproach and assumed to be highly ethical when performing such duties, no matter who is paying them.

CAPA page 2

These are a few examples of the issues Mr. Bernal has with CAPA, but overriding the issues is his behavior. It appears to me that in many cases Mr. Bernal was mostly interested in bringing attention to himself. The officers, directors, and Executive Director of CAPA have sworn in statements that Mr. Bernal has been disruptive, offensive, interfered with business relationships, spread misinformation, and cost the organization precious resources and time to deal with his actions.

On one of his internet postings, Mr. Bernal asks "would our profession be better served by not cancelling our memberships but running for board positions to make a change from within . . . or serving on committees, etc." Mr. Bernal should have listened to his own advice and done just that and encouraged others to do that. That is the way a healthy organization is influenced by its members, not by the tactics used by Mr. Bernal.

Unfortunately, it appears that if Mr. Bernal were to remain a member of the organization his past behavior would continue or even worsen, causing more unwarranted disruption and grief to the members, leaders, and staff of CAPA, so the only rational solution to this problem is to expel Mr. Bernal from the membership of CAPA.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Rivinius", with a long horizontal flourish extending to the right.

Robert Rivinius, CAE