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APPEAL AND REQUEST FOR HEARING

John A, Matthews, Jr, Esq. (name),

General Counsel (title/affiliation to registrant) of

Catholic Medical Mission Board, Inc. (organization),

requests a hearing of the Attorney General's:

- Order to Cease and Desist
- Notice of Revocation of Charity Registration
- Notice of Assessment of Penalties

Appellant's address (required):

Catholic Medical Mission Board, Inc.

100 Wall Street, Floor 9

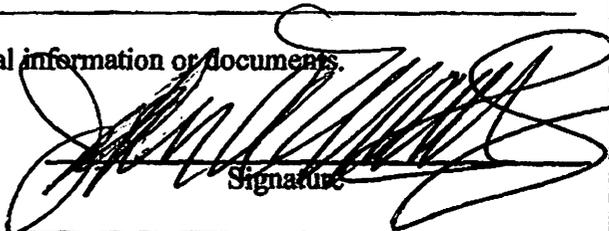
New York, New York 10005

(212) 242-7757 telephone number (required).

Statement for basis of appeal (required): Please see attached.

check this box if you are attaching additional information or documents.

4-10-18
Date


Signature

MURPHY ROSEN LLP
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6 JOHN A. MATTHEWS, JR. (New York State Bar No. 1716976)
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10 Attorneys for Respondent
Catholic Medical Mission Board, Inc.

11
12 **BEFORE THE**
13 **ATTORNEY GENERAL OF CALIFORNIA**
14

15 In the matter of the Order to Cease and Desist
16 and Assessment of Penalties Against:
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18 **CATHOLIC MEDICAL MISSION**
BOARD, INC.,
19 Respondent.
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CASE NO. 2018-13-5602319
RESPONDENT CATHOLIC
MEDICAL MISSION BOARD
INC.'S APPEAL AND REQUEST
FOR HEARING

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APPEAL AND REQUEST FOR HEARING

Pursuant to California Code of Regulations, Title 11, sections 999.6 et. seq, Respondent Catholic Medical Mission Board, Inc. CA Registration No. CT0136315 (“CMMB”) hereby submits this Appeal to the Attorney General’s (“AG”) First Amended Order to Cease and Desist; Notice of Assessment of Penalties (“The Order”) entered against it, and requests that the Order be rescinded and the Assessment of Penalties rejected. Pursuant to California Government Code section 12591.1(e), CMMB also requests a full evidentiary hearing, after completion of discovery including expert witness discovery.

As this matter was just commenced, CMMB has not completed its investigation and discovery of the related facts and law. Based on CMMB’s current investigation and without prejudice to CMMB’s right to present additional evidence and argument in support of its position after discovery is completed, CMMB responds as follows:

BASIS OF APPEAL

1. In existence for over 100 years, CMMB was incorporated in 1928 as a nonprofit corporation. It delivers quality healthcare services and medicines to people in need throughout the world and builds sustainable healthcare programs that target leading causes of illness, suffering and death. CMMB’s programs provide integrated management of childhood illness, primary healthcare, HIV and AIDS prevention, treatment of HIV-infected individuals, voluntary counseling and testing, improved access to medical services, and training of nurses and doctors in prevention, care and counseling. CMMB ships medicines and supplies to resource-poor countries, where they are dispensed and distributed free of charge. It places doctors, nurses and other volunteers in locations where their professional expertise is urgently needed and provides disaster relief to regions hit by natural or political catastrophes. CMMB operates throughout the world and maintains offices in New York, Haiti, Kenya, Peru, South Sudan and Zambia.

1 2. CMMB is committed to financial transparency. At all relevant times and
2 consistent with Business and Professions Code section 17510.5, CMMB has (a)
3 followed generally accepted accounting principles (“GAAP”) in valuing
4 pharmaceutical gifts-in-kind (“GIKs”); (b) prepared its financial statements in
5 accordance with GAAP; (c) used well-respected, independent certified public
6 accountants to audit their financial statements to ensure that the financial statements
7 conformed to GAAP; and (d) consistently followed the advice and recommendations of
8 its auditors in valuing pharmaceutical GIKs who have independently confirmed that
9 CMMB’s practices were and are consistent with GAAP.

10 3. Nevertheless, the AG’s Order sets forth factual allegations from which it
11 effectively concludes that the advice that CMMB received and is receiving from its
12 auditors is faulty, and that CMMB failed to follow GAAP in valuing pharmaceutical
13 GIKs resulting in CMMB overvaluing its pharmaceutical GIKs. The AG’s Order
14 further concludes that, at least since 2013, CMMB incorporated this overvaluation into
15 its solicitations to Californians, rendering these solicitations unfair and deceptive under
16 Government Code § 12599.6.

17 4. CMMB denies both generally and specifically each and every factual
18 allegation and conclusion of law upon which the AG’s Order is based. For emphasis
19 only, CMMB specifically (a) denies that the AG is properly interpreting GAAP; (b)
20 denies that geographic restrictions on distributing a GIK in the United States market
21 renders the United States a prohibited market for purposes of GIK valuation; and (c)
22 denies that any of its representations in its solicitations to potential donors in California
23 were in any way unfair or deceptive.

24 5. CMMB further emphasizes that the representations to potential donors
25 that the AG contends were unfair and deceptive were at all times made in good faith
26 reliance on the advice of their auditors, consistent with custom and practice of the
27 industry, and without any intent to mislead or deceive any potential donors whether in
28 California or nationwide.

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WHEREFORE, Respondent CMMB prays, individually and collectively:

1. For a hearing to be held, after discovery, regarding AG's factual allegations and conclusions of law;
2. For a prehearing conference, at which time CMMB will request, *inter alia*, that the hearing officer bifurcate the hearing such that the first issue to be resolved is whether CMMB's accounting complies with GAAP;
3. That after hearing, the Order be vacated in full or, to the extent the hearing office concludes that any portion of the Order should remain in effect, the hearing office vacate the penalties set forth in Order;
4. That CMMB be granted its costs associated with this action; and
5. For such other, further and different relief as may be deemed just and proper.

DATED: April 10, 2018

Respectfully submitted,
MURPHY ROSEN LLP

By: 
Paul D. Murphy
Joanne L. Rosen
Attorneys for Respondent
Catholic Medical Mission Board, Inc.

PROOF OF SERVICE

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I, **ALLISON CASTILLO**, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 100 Wilshire Boulevard, Suite 1300, Santa Monica, California 90401-1142, (310) 899-3300.

On **April 11, 2018**, I served the document(s) described **RESPONDENT CATHOLIC MEDICAL MISSION BOARD INC.'S APPEAL AND REQUEST FOR HEARING** on the interested parties in this action:

SEE ATTACHED SERVICE LIST

BY OVERNIGHT DELIVERY: I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons above or on the attached service list, I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **April 11, 2018**, at Santa Monica, California.



ALLISON D. CASTILLO

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Sonja K. Berndt, Deputy Attorney General
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