CAMPBELL & WILLIAMS
DONALD J. CAMPBELL, ESQ. (1216)
djc@campbellandwilliams.com
J. COLBY WILLIAMS, ESQ. (5549)
jcw@campbellandwilliams.com
WM. HUNTER CAMPBELL, ESQ. (12564)
whc@campbellandwilliams.com
700 South Seventh Street
Las Vegas, Nevada 89101
Telephone: (702) 382-5222
Facsimile: (702) 382-0540

Attorneys for Nicholas Diaz

BEFORE THE NEVADA STATE ATHLETIC COMMISSION

IN THE MATTER OF:	**MOTION FOR RECONSIDERATION**
NICHOLAS DIAZ	

Nicholas Diaz, through his undersigned counsel, hereby submits the following Motion for Reconsideration pursuant to NAC 467.954. This Motion is made and based on the papers and pleadings on file herein, the exhibits attached hereto, and the Points and Authorities that follow.

POINTS AND AUTHORITIES

I. INTRODUCTION

On October __, 2015, the Nevada State Athletic Commission (the "Commission") issued its Findings of Fact, Conclusions of Law, and Order ("Decision") in this matter in which it suspended Nicholas Diaz ("Mr. Diaz") for five (5) years and levied a fine of $165,000. This Decision memorialized the punishment imposed by the Commission during the September 14, 2015 disciplinary hearing of Mr. Diaz. Here, Mr. Diaz respectfully requests that the Commission grant a rehearing of this matter based on new evidence not introduced at the disciplinary hearing, which is material, necessary and reasonably calculated to change the Decision of the Commission.

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
700 SOUTH SEVENTH STREET, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
700 SOUTH SEVENTH STREET, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

II. ARGUMENT

NAC 467.954(1) provides "[i]f a party is not satisfied with the decision of the Commission and if the party has evidence not introduced at the hearing, the party may file a motion for rehearing not later than 10 after service of the decision on the party. The movant must demonstrate that "[t]here is additional evidence which is material, necessary and reasonably calculated to change the decision of the Commission" and there was "an acceptable reason for failing to present the evidence at the hearing of the Commission." NAC 467.954(4)(a) and (b). If the movant makes such a showing, then "[t]he Commission may order a rehearing before the Commission upon such terms and conditions as it deems just and proper…" NAC 467.954(3).

At the disciplinary proceeding on September 14, 2015, Mr. Diaz relied on the advice of counsel and invoked his rights under the Fifth Amendment of the United States Constitution when questioned by the Commission regarding his use of marijuana – particularly when asked whether he used marijuana prior to his January 31, 2015 fight. Mr. Diaz subsequently retained additional counsel to address the penalties imposed by the Commission. *See* Exhibit "1," Declaration of Nicholas Diaz. After conferring with new counsel, Mr. Diaz determined that he wrongfully invoked the Fifth Amendment in response to relevant questions posed by members of the Commission and that he should have and would have testified to the Commission that he did not use marijuana "in-competition," as that term is defined by the World Anti-Doping Agency ("WADA") in its Anti-Doping Code.[1]

Mr. Diaz's proffered testimony in the attached declaration constitutes "additional evidence, which is material, necessary and reasonably calculated to change the decision of the

[1] WADA provides the following definition for the term "in-competition": "[u]nless provided otherwise in the rules of an International Federation or the ruling body of the *Event* in questions, "*In-Competition"* means the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such "*Competition*." *See* Exhibit "2," Excerpt of WADA Anti-Doping Code.

Commission." NAC 467.954(4)(a). That Mr. Diaz wrongfully invoked the Fifth Amendment, relying on the advice of counsel and that invoking the Fifth Amendment did not provide "an acceptable reason" for not presenting his testimony to the Commission. NAC 467.954(4)(b). Accordingly, Mr. Diaz has met the threshold burden required by the Commission in order to grant a rehearing pursuant to NAC 467.954.[2]

III. CONCLUSION

Based on the foregoing, Mr. Diaz respectfully request that the Nevada State Athletic Commission grant the Motion for Reconsideration.

DATED this ____th day of January, 2016.

CAMPBELL & WILLIAMS

By ***/s/ Wm. Hunter Campbell***
DONALD J. CAMPBELL, ESQ. (1216)
J. COLBY WILLIAMS, ESQ. (5549)
WM. HUNTER CAMPBELL, ESQ. (12564)
700 South Seventh Street
Las Vegas, Nevada 89101

Attorneys for Nicholas Diaz

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
700 SOUTH SEVENTH STREET, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

[2] Mr. Diaz acknowledges and accepts full responsibility for his failure to provide truthful information on his pre-fight medical questionnaire. Mr. Diaz is aware that full disclosure on such documents is an important component of the licensing process and he respects the role of the Commission in regulating the sport of mixed martial arts.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **MOTION FOR RECONSIDERATION** was served on the __th day of November, 2015 via e-mail and U.S. Mail, first class postage prepaid, to the following:

Adam P. Laxalt, Esq.
Caroline Bateman, Esq.
Nevada Attorney General
555 East Washington Ave., Suite 3900
Las Vegas, Nevada 89101

/s/ ***Lucinda Martinez***
An Employee of Campbell & Williams

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
700 SOUTH SEVENTH STREET, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com