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BEFORE THE

CALIFORNIA GAMBLING CONTROL COMMISSION

STATE OF CALIFORNIA

In the Matter of the Accusation Against: The OAKS CARD CLUB 4097 San Pablo Avenue Emeryville, CA 94608 Gambling License No. GEGE-001063 Respondent.	CGCC Case No. **2011 03-04-1** OAH No. **2011040117** **STIPULATION AND ORDER**

1. The Oaks Card Club (the "Oaks" or "Respondent"), is a limited partnership which owns the gambling establishment presently known and doing business as the Oaks Card Club, located at 4097 San Pablo Avenue, Emeryville, California 94608. The Oaks is the holder of Gambling License Number GEGE-001063 for the gambling enterprise, issued by the California Gambling Control Commission ("Commission") pursuant to the Gambling Control Act (Bus. & Prof. Code, § 19800, et seq., the "Act"). The Oaks' state gambling license was in full force and

effect at all times relevant to the facts set forth herein. That license will expire on June 30, 2011, unless renewed.

2. Martin Horan, Jr. ("Complainant") is the Acting Chief of the Bureau of Gambling Control, California Department of Justice ("Bureau"). He brought this action solely in his official capacity under the Act and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by William L. Williams, Jr., Deputy Attorney General.

PROCEDURAL BACKGROUND

3. On or about March 2, 2011, pursuant to Business and Professions Code section 19931, the Bureau served upon Respondent an Emergency Order prohibiting Respondent from offering controlled games and suspending Respondent's state gambling license. Thereafter, Respondent was closed from doing business as a gambling enterprise under the Act.

4. On or about March 10, 2011, upon a stipulation of the parties, the Commission modified the Bureau's Emergency Order allowing the Respondent to reopen as a gambling enterprise, but setting forth agreed upon restrictions to preserve the public safety, incorporating suggestions by the Commission, the Oaks and the Bureau.

JURISDICTION

5. On or about March 4, 2011, pursuant to Business and Professions Code sections 19930 and 19931 the Bureau caused to be filed with the Commission and served upon Respondent an accusation ("Accusation") alleging among other things the occurrence of illegal loan-sharking and illegal drug dealing at the gambling establishment directly involving some employees of Respondent and members of a criminal organization.

6. On or about March 10, 2011, Respondent filed a notice of defense in response to the Accusation.

7. Pursuant to Business and Professions Code sections 19930 and 19931, this matter is currently scheduled to be heard before an Administrative Law Judge sitting with the Commission.

8. The parties agree that the Commission has jurisdiction over this matter and has authority to approve this Stipulation and Order under Business and Professions Code sections 19823, 19824, 19930, and 19931, and Government Code section 11415.60.

PURPOSE

9. The parties now desire to settle this matter on the terms set forth in this Stipulation. Accordingly, the parties jointly request that the Commission, at its next regularly scheduled public meeting, or as soon thereafter as the Commission may consider the matter, approve the settlement of this matter as set forth herein.

10. The parties recognize loan-sharking cannot be tolerated in any California cardroom. The purpose of this Stipulation is to: (a) settle the within matter on terms agreeable to the parties; and (b) specify terms for the parties' continued cooperation and efforts with the goal of eliminating any future loan-sharking and related criminal activity at the Respondent's premises.

SETTLEMENT TERMS

11. Gambling Control Act section 19920 provides that:

> It is the policy of the State of California to require that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. The responsibility for the employment and maintenance of suitable methods of operation rests with the owner licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable by the commission or by local government shall constitute grounds for license revocation or other disciplinary action.

Commission Disciplinary Regulation § 12568, subsection (b) (6) and (7) provide for discipline of a gambling license if the licensee commits loan-sharking or conducts or negotiates the illegal sale of controlled substances. Subsection (8) provides for discipline of an owner licensee who has "not taken reasonable steps to prevent the crimes listed in subsection (b), paragraphs (5) through and including (7), from occurring at the gambling establishment, when the owner licensee knew or should have known that these crimes were being committed."

12. For the purpose of this Stipulation and Order, the Oaks does not contest that the

illegal loans alleged in the Accusation occurred and that a serious problem with loan-sharking existed on the Oaks premises, and does not contest that three illegal sales of controlled substances occurred on the Oaks' property.

13. Since the service of the Emergency Order on March 2, 2011, the Oaks has cooperated with the Bureau and has initiated remedial measures. The Oaks has commenced and shall continue to take any and all reasonable steps against illegal activities like those set forth in the Accusation. The parties agree that the Oaks shall employ the measures attached hereto as Exhibit A. The parties may amend Exhibit A by mutual agreement in writing subject to Commission approval. Pai Gow Tiles shall not commence until the Oaks has implemented all the requirements of paragraphs 1-3, 7-9, 11-14 of Exhibit A, and paragraphs 14, 15 and 17 of this Stipulation.

14. The Oaks shall provide the Bureau the name of any person to be hired for or assigned to the Pai Gow Tiles section. Before re-hiring or re-instating any person who worked in the Pai Gow Tiles section before March 2, 2011, the Oaks shall notify the Bureau in writing and shall not re-hire or re-instate any person to whom the Bureau objects.

15. The Oaks and the Bureau shall coordinate with the City of Emeryville for improved law enforcement efforts at the Oaks to deter illegal activity at the gambling establishment.

16. The Oaks also shall implement the procedures as set forth in the MICS II Security and Surveillance regulations (Title 4, CCR sections 12372, 12395 and 12396) as soon as practicable but not later than 45 days from the date of the Commission's adoption of this Stipulation and Order, except that the Oaks will start now and may have a reasonable time to modify its surveillance or other technical systems as necessary to comply with the MICS II. The Oaks will report to the Bureau within 45 days its progress on all changes to the surveillance or other technical systems. In addition, the parties and the Commission agree that MICS II regulations § 12395, subsections (c) (1) and (2) mean and require only that licensees install and maintain a backup generator that is sufficient, during power outages, to provide for the operation

of gambling floor area, cage, surveillance room, security room and emergency and exit lighting systems, cage and surveillance information systems, and surveillance and recording systems.

17. Respondent Oaks will pay a fine of $ 550,000, with $ 275,000 being stayed pursuant to the terms and conditions of this Stipulation and Order for two years from the date the Commission adopts it. Respondent Oaks will pay costs for the investigation, preparation and prosecution of the Accusation, in the amount of $ 300,000. A cashier's check in the amount of $ 575,000, made payable to the "State of California Department of Justice Bureau of Gambling Control" shall be brought to the Commission hearing for approval of this Stipulation as full payment of these costs and unstayed portion of the fine, and delivered to the Bureau upon the Commission's approval of this Stipulation and Order. In the event the Commission does not adopt this Stipulation and an evidentiary hearing before an Administrative Law Judge and/or the Commission becomes necessary, neither any member of the Commission, nor the Executive Director of the Commission, shall be disqualified because of prior consideration of this Stipulation.

18. During the two-year period that the fine is stayed under this Stipulation and Order, if there is a breach of this agreement by Respondent, the Bureau will investigate the same, and if it determines that the breach could reasonably have been prevented by Respondent, the Bureau will make a recommendation as to the imposition of any, or all of the stayed portion of the fine to the Commission based upon affidavits or other credible evidence with regard to such breach and Respondent's fault in such breach. The Bureau will provide this recommendation to the Commission and to the Oaks. In a duly noticed and open Commission meeting as an extension of jurisdiction under this Stipulation and Order, and with the Oaks provided with a meaningful opportunity to respond and present information in its defense and by way of mitigation, the Commission will consider the circumstances of such breach and determine whether the imposition of any or all of the stayed portion of the fine herein is warranted and issue a binding written decision. Subject only to a timely request for reconsideration made in writing to the Commission within 15 days of the issuance of the written decision, the Commission's decision

shall be final and not subject to judicial review, with any amounts of the fine imposed becoming due and owing upon the Commission's decision becoming final. The Commission shall consider in imposing any part of the stayed fine the following factors as applicable:

a. The nature, quality, and severity of the recurrence of the illegal activity under the Gambling Control Act;

b. The nature, quality, and severity of the breach of this agreement as it affects the purposes and goals of this agreement under the Gambling Control Act;

c. The Oaks' cooperation with the Bureau and local law enforcement in preventing the recurrence of such conduct and in timely reporting same to the Bureau and local law enforcement;

d. The efficacy of the procedures instituted by the Oaks to prevent such conduct, the Oaks' cooperation with the Bureau in developing and implementing its procedures, and the Oaks' good faith adherence to its procedures; and/or

e. Other mitigating and aggravating factors as set forth in Commission regulation 12556.

If the Bureau elects instead to bring an accusation, then imposition of the stayed portion of the fine shall be determined in the accusation process, provided that the imposition of the stayed portion of the fine shall not be a set-off or considered mitigation of any new disciplinary action or penalties. If, during the two year period of this Agreement, the stayed portion of the fine is neither assessed nor the subject of an accusation or summary proceeding discussed in this paragraph 18, the stayed portion of the fine shall be cancelled, not paid for any reason and of no further effect.

19. Any alleged violations of title 31 of the United States Code section 5311, et seq. as set forth in the Third Cause for Discipline contained in the Accusation are withdrawn by the Bureau for purposes of this Stipulation.

20. This Stipulation and Order resolves, under the Act and the disciplinary regulations,

the Oaks' liability and that of its endorsed owner/partner licensees for the Accusation. The Bureau will not, on the basis of the Accusation, or allegations which could have been made in the Accusation, recommend against renewal of the Oaks' license or recommend or suggest additional conditions on the Oaks' license or the revocation of said license, provided that the Bureau will not be precluded from providing a full and complete report to the Commission on any renewal application which may include any information then obtained, and the Commission shall not deny, revoke, condition or refuse to renew the Oaks' or its endorsed owner/partner licensees' license on the basis of the Accusation.

21. Upon the Commission's approval of this Stipulation, the Modified Emergency Order dated March 10, 2011 is rescinded and of no further effect. Notwithstanding any other term of this Stipulation, should any federal criminal action(s) be taken against Respondent and/or its owner licensees leading to a conviction of criminal charges that would render any or all of them unsuitable for licensure under Business and Professions Code sections 19857(b), and 19859, the Bureau may commence a disciplinary action pursuant to Business and Professions Code section 19930. Nothing in this stipulation or order precludes or restricts any disciplinary action from being taken against any key employees or work permittees or other licensed entities that are not named respondents in this matter or endorsed on the Oaks' license.

22. In entering into this agreement the parties agree that any admissions and/or factual recitals contained herein are solely for the purposes of this Stipulation and Order and this proceeding and in view of administrative rules and burdens of proof, and solely as it pertains to Respondent's state gambling license and continued operation thereunder, and this agreement and/or any of its terms of conditions are not intended to be used as evidence or to have any legal effect outside of this administrative proceeding. Nothing in this Stipulation by Respondent is an admission of proof of the charges in the Accusation beyond a reasonable doubt in any criminal prosecution and are only intended to be used in an administrative licensing proceeding under the Act, and further shall be involuntary statements in any state or federal criminal prosecution as it is

the parties' understanding and agreement that these admissions are not intended to be used in any state or federal criminal prosecution against the Oaks or its endorsed owner/partner licensees.

23. Except for paragraphs 16, and 19 through 22, the terms and conditions in this Stipulation shall remain in effect for two years from the date of its approval by the Commission.

WAIVER AND ADVISEMENT

24. This Stipulation has been fully discussed between Respondent Oaks and its attorney, David Fried, and Respondent Oaks has been fully advised of the effect of this Stipulation as it waives any rights it may have to: (a) an administrative hearing on the Accusation; (b) any judicial challenge to this Stipulation and Order; and (c) collaterally challenge the terms of this Stipulation and Order. Respondent Oaks enters into this Stipulation voluntarily, knowingly, and intelligently, and agrees to be bound by this Stipulation and Order upon adoption by the Commission.

25. The parties understand and agree that facsimile copies of this Stipulation and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

26. This Stipulation constitutes the entire understanding between the parties concerning the subject matter that it covers. Any oral representations or modifications made prior to or after execution of this Stipulation concerning the subject matter of this Stipulation shall have no force or effect.

27. In consideration of the foregoing stipulations, the parties agree that the Commission may, without further notice or formal proceeding, issue and enter the Order set forth below.

ORDER

The foregoing Stipulation of the parties "In the Matter of the Accusation Oaks Card Club, 4097 San Pablo Avenue, Emeryville, CA 94608, Gambling License No. GEGE-001063," CGCC Case No. 2011-03-04-1, OAH Case No. 2011040117 is hereby approved under Commission Regulation 12552(b). The monetary penalty set forth in this Stipulation, and as partially stayed pursuant to the terms of this Stipulation, and the ongoing terms and conditions set forth in this Stipulation are hereby approved.

IT IS SO ORDERED.

Dated: May 9, 2011

STEPHANIE SHIMAZU, ACTING CHAIRPERSON
Gambling Control Commission

Dated: May 9, 2011

TIFFANY E. CONKLIN, COMMISSIONER
Gambling Control Commission

Dated: May 9, 2011

LAUREN HAMMOND, COMMISSIONER
Gambling Control Commission

ACCEPTANCE

I have carefully read the foregoing Stipulation and Proposed Order and have fully discussed it with my attorney, David Fried. I understand the Stipulation and Proposed Order and the effect it will have on State Gambling License Number GEGE-001063. I enter into this Stipulation and Proposed Order voluntarily, knowingly, and intelligently, and agree to be bound by the Order of the Commission.

Dated: May 9, 2011

JOHN TIBBETTS
Respondent's General Partner

Approved as to Form

I have read the terms and conditions and other matters contained in the above Stipulation and Proposed Order and approve it as to form.

Dated: May 9, 2011

DAVID FRIED
Attorney for Respondent

COMPLAINANT'S ACCEPTANCE

I have carefully read the foregoing Stipulation and Proposed Order and have fully discussed it with attorneys from the Department of Justice Office of the Attorney General. On behalf of the Bureau, I enter into this Stipulation and Proposed Order voluntarily, knowingly, and intelligently, and agree to be bound by the Order of the Commission.

Dated: May 9, 2011

MARTIN HORAN JR., ACTING CHIEF
Bureau of Gambling Control

ENDORSEMENT

The foregoing Stipulation and Order are hereby respectfully submitted for consideration by the California Gambling Control Commission.

Dated: May 9, 2011

KAMALA D. HARRIS
Attorney General of the State of California

By: _____
WILLIAM L. WILLIAMS, JR.
Deputy Attorney General
Attorneys for Complainant

OAKS CARD CLUB STIPULATION
Exhibit A

1. A security and surveillance expert, Bob Lytle, former director of the Bureau of Gambling Control, was retained to help the Oaks Club review and improve procedures. The Oaks has implemented his recommendations and will continue to use him as a consultant to review operations on a quarterly basis, make recommendations and reports as needed and test procedures. The Oaks will share with the Bureau and Commission his reports.

2. All Oaks Club employees will receive not less than semiannually MICS and policy training sessions, including training regarding loan sharking, illegal drugs, and proper cash handling for Title 31 compliance. The training includes the following:

   a) Loan-Sharking. All employees will be taught that it is a priority to be on the alert for any signs of loan-sharking. They will be given tips on what to look for and how to report it to their supervisors.
   b) Illegal Drugs. All employees will be taught that it is a priority to be on the alert for any signs of illegal drugs. The sale of or use of illegal drugs is strictly prohibited. They will be trained on what to look for and how to report any suspicious behavior to their supervisor.
   c) Large or Suspicious Cash Transactions. All cash handling employees in the department, as well as all cage cashiers, will receive a special retraining on large or suspicious cash transactions. All cash tracking forms and title 31 reporting requirements will be reviewed.

3. All employees of the Pai Gow Tiles department were permanently laid off. All applicants for rehire will be screened as provided for in the Stipulation and based upon, and not limited to, past performance, personal interviews, investigation reports from the Bureau agents involved in the case, and direct input from consultant Bob Lytle.

4. The Oaks has submitted new collection schedules to the Bureau to reduce the betting limits for the Pai Gow Tiles game.

5. Within thirty days, the Oaks will assign two key employees to manage the California Games section.

6. If a new employee is hired in the future to become the California Games Director, the person will be screened carefully by the Oaks Club. The person must also obtain a Commission license as a Key Employee.

7. Strict policies will be adopted for the use of all house chip boxes and work stations, including that these are for work related activities only, chip and cash controls, and policies against the co-mingling of house funds. Chip boxes and work stations will only be used for work related functions. No personal items may be stored there at any time. Customers may not use chip boxes or work stations. Chip boxes and work stations will be limited to 4 chip box cabinets, and two work stations, one for California games and one for the upper gaming floor (which contains one chip bank). All chip box cabinets

and work stations will be under continuous video surveillance at all times. The chip bank drawers must be locked when not being accessed and the chip banks must be in balance at all times. At change of shift, the chip banks must be counted down. At varying or random times at least once during each shift, the chip banks must be counted down.

8. The "Pai Gow Tiles" podium or work station, located to the left of the Pai Gow desk as you face the desk, has been eliminated and no work stations, chip box cabinets or podiums will be placed there, nor shall any work station or chip box be used exclusively by the Pai Gow Tiles section.

9. Chip runners for California Games will be limited to a maximum of $10,000 in cage chips at any one time

10. The Oaks will endeavor to interview for hire, hire and assign security to the Pai Gow Tiles section that includes Chinese or Vietnamese speaking security persons. However, the Oaks will continue to rotate security assignments, and will not discriminate in hiring decisions and shift assignments.

11. Bob Lytle will consult with the Oaks respecting surveillance cameras and camera placements for the Pai Gow Tiles section.

12. The Oaks shall allow the Bureau upon request immediate and full investigatory access to its operational security and surveillance, including surveillance video, to assure that criminal loan-sharking not take place.

13. The Oaks allows people in the California games section to observe the play of the games. These people sometimes are interested in playing the games, and may want to watch the games to see how they are played and in deciding whether to play. However, consistent with applicable law, the Oaks staff are and will be trained to observe if people are loitering without a legitimate purpose or habitually.

14. The Oaks shall provide that its surveillance of the public areas is monitored by trained staff live 24 hours a day, everyday.