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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Issues
Against:

Candelario Salas, Sole Proprietor of
La Primavera Pool Hall and Cafe

License Number GEGE-000408

Respondent.

BGC Case No. BGC-HQ2010-0001AL
CGCC Case No. CGCC-2009-12-03-02

DECISION AND ORDER

Hearing Dates: December 11, 2013
November 19, 2015
Time: 10:00 a.m.

This matter was heard by the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12050(b)(2), in Sacramento, California, on December 11, 2013. This matter was continued and submitted for Commission consideration on November 19, 2015.

William L. Williams, Jr. (Williams), Deputy Attorney General, State of California, represented complainant Martin J. Horan IV, and later Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Respondent Candelario Salas (Salas) was represented by Steven Geringer, Law Offices of Steven A. Geringer.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing and Prehearing Conference, with enclosures, sent by the Commission to Virginia Salas, Designated Agent for La Primavera Pool Hall and Café (La Primavera), and Williams on October 11, 2013.

During the administrative hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

- (1) Gambling License Number GEGE-000408;
- (2) September 29, 2005, Minutes from Commission Meeting;
- (3) April 20, 2006, Minutes from Commission Meeting;

- 1 (4) June 8, 2006, Minutes from Commission Meeting;
- 2 (5) April 26, 2007, Minutes from Commission Meeting;
- 3 (6) July 31, 2007, Fax from Virginia Salas;
- 4 (7) April 22, 2008, Minutes from Commission Meeting;
- 5 (8) August 19, 2008, Fax from TaxInc.;
- 6 (9) August 28, 2008, Minutes from Commission Meeting;
- 7 (10) September 23, 2008, Minutes from Commission Meeting;
- 8 (11) November 14, 2008, Fax from TaxInc.;
- 9 (12) December 3, 2008, Letter from Robin Saenz to La Primavera;
- 10 (13) December 11, 2008, Minutes from Commission Meeting;
- 11 (14) January 27, 2009, Fax from TaxInc.;
- 12 (15) March 11, 2009, Letter from Robin Saenz to La Primavera;
- 13 (16) May 15, 2009, Letter from Robin Saenz to La Primavera;
- 14 (17) June 12, 2009, Letter from Robin Saenz to La Primavera;
- 15 (18) August 13, 2009, Letter from Marianne Estes to La Primavera;
- 16 (19) August 27, 2009, Letter from Robin Saenz to La Primavera;
- 17 (20) August 27, 2009, Fax from TaxInc.;
- 18 (21) September 9, 2009, Minutes from Commission Meeting;
- 19 (22) September 21, 2009, Letter from Robin Saenz to La Primavera;
- 20 (23) October 15, 2009, Fax from TaxInc.;
- 21 (24) October 19, 2009, Letter from Frances Asuncion to Virginia Salas;
- 22 (25) November 3, 2009, Letter from Frances Asuncion to Virginia Salas;
- 23 (26) November 4, 2009, Letter from Chris Davis to Tina Littleton;
- 24 (27) November 9, 2009, Letter from Frances Asuncion to Virginia Salas;
- 25 (28) November 12, 2009, Letter from Robin Saenz to Candelario Salas;
- 26 (29) November 17, 2009, Fax from La Primavera;
- 27 (30) November 24, 2009, Minutes from Commission Meeting;
- 28

- 1 (31) December 7, 2009, Letter from Tina Littleton to Virginia Salas;
- 2 (32) December 15, 2009, Letter from Terresa Ciau to Jacob Appelsmith;
- 3 (33) January 21, 2010, Letter from Tina Littleton to Virginia Salas;
- 4 (34) March 1, 2010, Fax from City of Madera to City Salon Jones;
- 5 (35) May 13, 2010, Email from Lori Wojdan to Dolly Jones; and
- 6 (36) March 16, 2012, Letter from William L. Williams, Jr. to Candelario Salas
- 7 with copies of the Statement to Respondent; Statement of Issues; Request
- 8 for Discovery; Government Code Sections 11507.5, 11507.6 and 11507.7;
- 9 and Notice of Defense.

10 The matter was submitted on November 19, 2015.

11 FINDINGS OF FACT

- 12 1. Salas owns and operates La Primavera as a sole proprietor under State Gambling
- 13 License number GEGE-000408.
- 14 2. On or about August 27, 2009, Salas submitted an application to renew his State
- 15 Gambling License as the owner of La Primavera to the Commission.
- 16 3. On or about September 9, 2009, the Commission extended Salas' State Gambling
- 17 License to November 30, 2009 with a condition that Salas "send to the Commission, no later than
- 18 the 15th day of each month, documentation from the Internal Revenue Service (IRS)
- 19 substantiating compliance with tax repayment obligations."
- 20 4. On or about November 23, 2009, Salas notified the Commission that in the event of a
- 21 denial of his renewal application, he requested an evidentiary hearing.
- 22 5. At its November 24, 2009 meeting, the Commission voted to deny Salas' application
- 23 to renew his State Gambling License.
- 24 6. On or about December 7, 2009, the Commission notified Salas of the Commission's
- 25 decision to deny his application for renewal of his State Gambling License and the referral of the
- 26 matter to an evidentiary hearing.
- 27 7. On or about March 16, 2012, the Bureau filed a Statement of Reasons with the
- 28

1 Commission and served the Statement of Reasons on Salas via certified mail. In its Statement of
2 Reasons, the Bureau recommends the denial of Salas' renewal application.

3 8. The Commission heard Case No. CGCC-2009-12-03-02 on December 11, 2013. The
4 Bureau was represented throughout the hearing by Deputy Attorney General William L.
5 Williams, Jr. Respondent Candelario Salas was represented by Steven Geringer, Esq.

6 9. During the hearing, counsel for Salas stipulated to the correctness of all of the
7 allegations contained in the Bureau's Statement of Issues. As a result, each and every one of the
8 allegations contained in the Bureau's Statement of Issues has been admitted as factual evidence in
9 this matter.¹

10 10. At the conclusion of the hearing on December 11, 2013, the Commission voted to
11 continue the matter to June 11, 2014 and left the record open in order to provide Salas with the
12 opportunity to sell La Primavera.

13 11. The hearing was subsequently continued to November 19, 2015.

14 12. All documentary and testimonial evidence submitted by the parties that is not
15 specifically addressed in this Decision and Order was considered but not used by the Commission
16 in making its determination on Salas' renewal application.

17 13. The matter was submitted for Commission consideration on November 19, 2015.

18 LEGAL CONCLUSIONS

19 14. Division 1.5 of the Business and Professions Code, the provisions of which govern the
20 denial of licenses on various grounds, does not apply to licensure decisions made by the
21 Commission under the Gambling Control Act. Business and Professions Code section 476(a).

22 15. Public trust and confidence can only be maintained by strict and comprehensive
23 regulation of all persons, locations, practices, associations, and activities related to the operation
24 of lawful gambling establishments and the manufacture and distribution of permissible gambling
25 equipment. Business and Professions Code section 19801(h).

26 16. At an evidentiary hearing pursuant to Business and Professions Code sections 19870

27 _____
28 ¹ The Bureau's Statement of Issues is incorporated herein by reference and attached as Exhibit A.

1 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or
2 her qualifications to receive any license under the Gambling Control Act. CCR section 12060(i).

3 17. The Commission has the responsibility of assuring that licenses, approvals, and
4 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose
5 operations are conducted in a manner that is inimical to the public health, safety, or welfare.
6 Business and Professions Code section 19823(a)(1).

7 18. An “unqualified person” means a person who is found to be unqualified pursuant to
8 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to
9 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code
10 section 19823(b).

11 19. The Commission has the power to deny any application for a license, permit, or
12 approval for any cause deemed reasonable by the Commission. Business and Professions Code
13 section 19824(b).

14 20. The burden of proving his or her qualifications to receive any license from the
15 Commission is on the applicant. Business and Professions Code section 19856(a).

16 21. No gambling license shall be issued unless, based on all of the information and
17 documents submitted, the commission is satisfied that the applicant is a person of good character,
18 honesty, and integrity. Business and Professions Code section 19857(a).

19 22. No gambling license shall be issued unless, based on all of the information and
20 documents submitted, the commission is satisfied that the applicant is a person whose prior
21 activities and criminal record, if any, reputation, habits, and associations do not pose a threat to
22 the public interest of this state, or to the effective regulation and control of controlled gambling,
23 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
24 in the conduct of controlled gambling or in the carrying on of the business and financial
25 arrangements incidental thereto. Business and Professions Code section 19857(b).

26 23. No gambling license shall be issued unless, based on all of the information and
27 documents submitted, the commission is satisfied that the applicant is a person that is in all other
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1 respects qualified to be licensed as provided in this chapter. Business and Professions Code
2 section 19857(c).

3 24. The Commission shall deny a license to any applicant who is disqualified for failure of
4 the applicant to clearly establish eligibility and qualification in accordance with this chapter.
5 Business and Professions Code section 19859(a).

6 25. The Commission shall deny a license to any applicant who is disqualified for failure of
7 the applicant to provide information, documentation, and assurances required by this chapter or
8 requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the
9 supplying of information that is untrue or misleading as to a material fact pertaining to the
10 qualification criteria. Business and Professions Code section 19859(b).

11 26. Salas has failed to meet his burden of demonstrating that he is a person whose prior
12 activities, habits, and associations do not pose a threat to the public interest of this state, or to the
13 effective regulation and control of controlled gambling, or create or enhance the dangers of
14 unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled
15 gambling or in the carrying on of the business and financial arrangements incidental thereto.
16 Therefore, Salas is unqualified for the issuance of a renewal State Gambling License pursuant to
17 Business and Professions Code section 19857(b).

18 27. Salas has failed to meet his burden of demonstrating that he is a person that is in all
19 other respects qualified to be licensed as provided in Chapter 5, of Division 8, of the Business and
20 Professions Code. Therefore, Salas is unqualified for the issuance of a renewal State Gambling
21 License pursuant to Business and Professions Code section 19857(c).

22 28. Salas has failed to meet his burden of clearly establishing eligibility and qualification
23 in accordance with Chapter 5, of Division 8, of the Business and Professions Code. Therefore,
24 Salas is disqualified from the issuance of a renewal State Gambling License pursuant to Business
25 and Professions Code section 19859(a).

26 29. Salas has failed to meet his burden of providing information, documentation, and
27 assurances required by Chapter 5, of Division 8, of the Business and Professions Code or
28

1 requested by the chief. Therefore, Salas is disqualified from the issuance of a renewal State
2 Gambling License pursuant to Business and Professions Code 19859(b).

3 NOTICE OF APPLICANT'S APPEAL RIGHTS

4 Salas has the following appeal rights available under state law:

5 CCR section 12064, subsections (a) and (b) provide, in part:

6 An applicant denied a license, permit, registration, or finding of suitability, or whose
7 license, permit, registration, or finding of suitability has had conditions, restrictions,
8 or limitations imposed upon it, may request reconsideration by the Commission
9 within 30 calendar days of service of the decision, or before the effective date
10 specified in the decision, whichever is later. The request shall be made in writing to
11 the Commission, copied to the Bureau, and shall state the reasons for the request,
12 which must be based upon either newly discovered evidence or legal authorities that
13 could not reasonably have been presented before the Commission's issuance of the
14 decision or at the hearing on the matter, or upon other good cause which the
15 Commission may decide, in its sole discretion, merits reconsideration.

16 Business and Professions Code section 19870, subdivision (e) provides:

17 A decision of the commission denying a license or approval, or imposing any
18 condition or restriction on the grant of a license or approval may be reviewed by
19 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of
20 the Code of Civil Procedure shall not apply to any judicial proceeding described in
21 the foregoing sentence, and the court may grant the petition only if the court finds
22 that the action of the commission was arbitrary and capricious, or that the action
23 exceeded the commission's jurisdiction.

24 CCR section 12066, subsection (c) provides:

25 A decision of the Commission denying an application or imposing conditions on license
26 shall be subject to judicial review as provided in Business and Professions Code section
27 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
28 filing the petition shall be affected by failure to seek reconsideration.

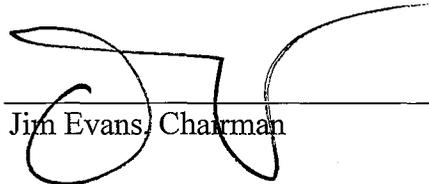
ORDER

1. Candelario Salas' Renewal Application for State Gambling License is DENIED.
2. No costs are to be awarded.
3. Each side to pay its own attorneys' fees.

This Order is effective on February 8, 2016.

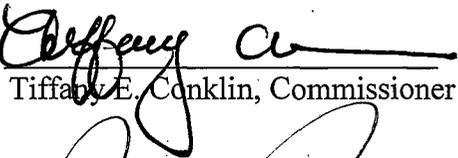
Dated: Jan 7 2014

Signature:


Jim Evans, Chairman

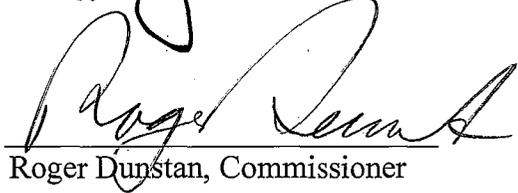
Dated: Jan 7, 2016

Signature:


Tiffany E. Conklin, Commissioner

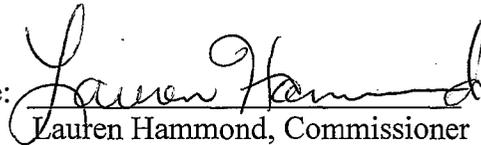
Dated: Jan 7, 2016

Signature:


Roger Dunstan, Commissioner

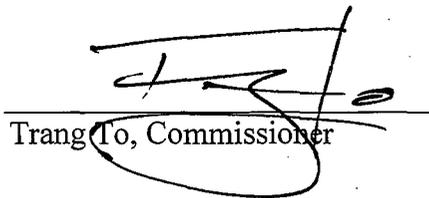
Dated: 1-7-2016

Signature:


Lauren Hammond, Commissioner

Dated: 1-7-2016

Signature:


Trang To, Commissioner

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 8 Gambling Control, Department of Justice

9
 10 **BEFORE THE**
 11 **CALIFORNIA GAMBLING CONTROL COMMISSION**
 12 **STATE OF CALIFORNIA**

13 **In the Matter of the Statement of Issues**
 14 **Against:**

15 **CANDELARIO SALAS, Sole Proprietor**
 16 **LA PRIMAVERA POOL HALL AND**
 17 **CAFE**
 224 South C Street
 Madera, CA 93638

BGC Case No. BGC-HQ2010-0001AL

CGCC Case No. _____

OAH No. _____

18 Respondents.

STATEMENT OF ISSUES

19 License Number GEGE-000408

20 Martin J. Horan IV, Complainant herein, alleges as follows:

21 **PARTIES**

22 1. Martin J. Horan IV ("Complainant") brings this Statement of Issues solely in his
 23 official capacity as the Acting Chief of the Bureau of Gambling Control, California Department of
 24 Justice ("Bureau").

25 2. Candelario Salas ("Respondent Owner") owns, as a sole proprietor, the gambling
 26 enterprise known and doing business as La Primavera Pool Hall and Cafe, located at 224 South C
 27 Street, Madera, California 93638 ("Cardroom") operating under State Gambling License GEGE
 28

1 000408, issued by the California Gambling Control Commission ("Commission") pursuant to the
2 Gambling Control Act (Bus. & Prof. Code, § 19800, et seq., the "Act").

3 RENEWAL LICENSE APPLICATION STATUS

4 3. On or about August 27, 2009, Respondent Owner submitted to the Commission an
5 application to renew his State Gambling License as the owner of the Cardroom.

6 4. On or about August 27, 2009, Commission staff notified Respondent Owner through
7 his designated agent, Virginia Salas, that the Commission would consider Respondent Owner's
8 license renewal application at its next regular meeting on September 9, 2009.

9 5. On or about September 9, 2009, the Commission extended Respondent Owner's State
10 Gambling License to November 30, 2009, on the condition that Respondent Owner:

11 send to the Commission, no later than the 15th day of each month,
12 documentation from the Internal Revenue Service (IRS) substantiating
13 compliance with tax repayment obligations. The first report will be due in
January 2009 continuing until repayment has been completed.

14 This condition was substantially similar to conditions that had been placed upon Respondent
15 Owner's license since June 8, 2006.

16 6. On or about November 4, 2009, Bureau staff requested that the Commission extend
17 the Respondent Owner's license to December 31, 2010, based upon the apparent failure of
18 Respondent Owner to comply with the condition on his license referenced in paragraph 5, above,
19 and to allow the Bureau time to determine an appropriate action.

20 7. On or about November 12, 2009, Commission staff notified Respondent Owner
21 through his designated agent that Commission staff was recommending that the Commission
22 consider three options in relation to Respondent's renewal application as follows:

23 a. Concur with the Bureau's recommendation to extend La
Primavera's license to December 31, 2010.

24 b. Deny the renewal application for licensure. This would be based
25 on the gambling establishment's failure to comply with an ongoing
26 condition to address their tax liabilities with the Internal Revenue Service
(IRS), pursuant to Business and Professions Code, Section 19824(b).
27 Even though the owner of the gambling establishment has been
28 providing the Commission with their progress of establishing a
repayment program by utilizing a third party (Tax Inc.), the
responsibility of meeting the condition ultimately is ultimately the owner

1 [sic] and that has not been completed as of the date of this report.

2 c. Approve the renewal application for licensure for one year
3 (December 1, 2009, through November 30, 2010) with the continuation
4 of the amended condition as listed below.

5 *Mr. Candelario Salas will send the Commission, no later than the*
6 *15th day of each month, documentation on the progress of establishing a*
7 *repayment plan with the Internal Revenue Service (IRS). This condition*
8 *will continue until repayment has been completed.*

9 (Italics added.)

10 8. On or about November 23, 2009, Respondent Owner through his designated agent
11 notified the Commission that in the event of a denial of his renewal application, he requested a
12 hearing.

13 9. On or about November 24, 2009, the Commission considered Respondent Owner's
14 application to renew his State Gambling License, and denied it. At that Commission meeting,
15 Commission staff apprised the Commission that Respondent Owner had requested a hearing in the
16 event of a denial of the renewal.

17 10. On or about December 7, 2009, the Commission notified Respondent Owner through
18 his designated agent of the Commission's denial of his application for renewal of his State
19 Gambling License and referral of the matter to the Commission's hearing process.

20 JURISDICTION

21 11. This Statement of Issues is brought before the Commission pursuant to the authority
22 detailed in paragraphs 12 through 21 below.

23 12. Business and Professions Code section 19810 states:

24 Except as otherwise provided in this chapter, any power or authority
25 of the department¹ described in this chapter may be exercised by the
26 Attorney General or any other person as the Attorney General may
27 delegate.

28 13. Business and Professions Code section 19826 provides in part as follows:

¹ The "department" referred to in the Act, is the Department of Justice (Bus. & Prof. Code, § 19805, subd. (h)). The Bureau of Gambling Control is within the Department of Justice, Division of Law Enforcement.

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The department shall have all of the following responsibilities:

(a) To investigate the qualifications of applicants before any license, permit, or other approval is issued, and to investigate any request to the commission for any approval that may be required pursuant to this chapter. The department may recommend denial or the limitation, conditioning, or restriction of any license, permit or other approval.

14. Business and Professions Code section 19811, in relevant part, states:

(b) Jurisdiction, including jurisdiction over operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operation of gambling establishments is vested in the commission.

15. Business and Professions Code section 19823 provides as follows:

(a) The responsibilities of the commission include, without limitation, all of the following:

(1) Assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(2) Assuring that there is no material involvement, directly or indirectly, with a licensed gambling operation, or the ownership or management thereof, by unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(b) For the purposes of this section, "unqualified person" means a person who is found to be unqualified pursuant to the criteria set forth in Section 19857, and "disqualified person" means a person who is found to be disqualified pursuant to the criteria set forth in Section 19859.

16. Business and Professions Code section 19824 provides in part as follows:

The commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter, including, without limitation, the power to do all of the following:

* * *

(b) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter or

1 regulations adopted pursuant to this chapter, limit, condition, or restrict any
2 license, permit, or approval, or impose any fine upon any person licensed or
3 approved.

4 * * *

5 (d) Take actions deemed to be reasonable to ensure that no ineligible,
6 unqualified, disqualified, or unsuitable persons are associated with
7 controlled gambling activities.

8 17. During all times relevant to Respondent Owner's renewal application in this Statement
9 of Issues, Business and Professions Code section 19876 provided as follows:

10 (a) Subject to the power of the commission to deny, revoke, suspend,
11 condition, or limit any license, as provided in this chapter, a license shall
12 be renewed upon application for renewal and payment of state gambling
13 fees as required by statute or regulation. Licenses renewed on or before
14 July 31, 2008, shall be for the renewal period in effect at the time of the
15 renewal but shall not expire any sooner than 15 months after the approval
16 of the renewal application. Licenses renewed on or after August 1, 2008,
17 shall expire 24 months after the date of the approval of the renewal
18 application or after the expiration of the prior license, whichever is later.

19 (b) An application for renewal of a gambling license shall be filed by
20 the owner licensee or key employee with the commission no later than 120
21 calendar days prior to the expiration of the current license. The
22 commission shall act upon any application for renewal prior to the date of
23 expiration of the current license. Upon renewal of any owner license, the
24 commission shall issue an appropriate renewal certificate or validating
25 device or sticker.

26 (c) Unless the commission determines otherwise, renewal of an owner's
27 gambling license shall be deemed to effectuate the renewal of every other
28 gambling license endorsed thereon.

(d) In addition to the penalties provided by law, any owner licensee
who deals, operates, carries on, conducts, maintains, or exposes for play any
gambling game after the expiration date of the gambling license is liable to
the state for all license fees and penalties that would have been due upon
renewal.

(e) If an owner licensee fails to renew the gambling license as
provided in this chapter, the commission may order the immediate closure
of the premises and a cessation of all gambling activity therein until the
license is renewed.

18. Business and Professions Code section 19870 provides in part as follows:

(a) The commission, after considering the recommendation of the
chief and any other testimony and written comments as may be presented

1 at the meeting, or as may have been submitted in writing to the
2 commission prior to the meeting, may either deny the application or grant
3 a license to an applicant who it determines to be qualified to hold the
4 license.

5 (b) When the commission grants an application for a license or
6 approval, the commission may limit or place restrictions thereon as it may
7 deem necessary in the public interest, consistent with the policies
8 described in this chapter.

9 (c) When an application is denied, the commission shall prepare and
10 file a detailed statement of its reasons for the denial.

11 (d) All proceedings at a meeting of the commission relating to a
12 license application shall be recorded stenographically or on audiotape or
13 videotape.

14 19. Business and Professions Code section 19871 provides as follows:

15 (a) The commission meeting described in Section 19870 shall be
16 conducted in accordance with regulations of the commission and as
17 follows:

18 (1) Oral evidence shall be taken only upon oath or
19 affirmation.

20 (2) Each party shall have all of the following rights:

21 (A) To call and examine witnesses.

22 (B) To introduce exhibits relevant to the issues of
23 the case.

24 (C) To cross-examine opposing witnesses on any
25 matters relevant to the issues, even though the matter
26 was not covered on direct examination.

27 (D) To impeach any witness, regardless of which
28 party first called the witness to testify.

(E) To offer rebuttal evidence.

(3) If the applicant does not testify in his or her own behalf,
he or she may be called and examined as if under cross-
examination.

(4) The meeting need not be conducted according to
technical rules relating to evidence and witnesses. Any relevant
evidence may be considered, and is sufficient in itself to support

1 a finding, if it is the sort of evidence on which responsible
2 persons are accustomed to rely in the conduct of serious affairs,
3 regardless of the existence of any common law or statutory rule
4 that might make improper the admission of that evidence over
5 objection in a civil action.

6 (b) Nothing in this section confers upon an applicant a right to
7 discovery of the department's investigative reports or to require
8 disclosure of any document or information the disclosure of which is
9 otherwise prohibited by any other provision of this chapter.

10 20. Commission regulation section 12050 (Cal. Code Regs., tit. 4, § 12050) provides in
11 pertinent part as follows:

12 (a) If the Bureau, after an investigation pursuant to Business and
13 Professions Code section 19826, subdivision (a), issues a
14 recommendation to deny, limit, restrict, or condition a license, permit, or
15 finding of suitability, the Bureau shall provide the applicant with a copy
16 of the Bureau's final report as described in Business and Professions
17 Code section 19868, subdivision (b), which includes a detailed factual
18 and/or legal basis for any recommendation as well as the Bureau's
19 recommendation to the Commission and any supplemental documents
20 provided to the Commission at the time of the report and
21 recommendation. Any applicant for any license, permit, or finding of
22 suitability for whom Commission staff has issued a recommendation of
23 denial or imposition of conditions shall be given notice by certified mail
24 of the Commission meeting at which the application is scheduled to be
25 heard and the Commission staff recommendation [made] at least 10 days
26 prior to the meeting. The applicant shall be afforded the opportunity to:

27 (1) Address the Commission by way of an oral statement at a
28 noticed Commission meeting, and/or may submit documents in
support of the application, or

(2) Request an evidentiary hearing.

(b) If the applicant requests an evidentiary hearing or the
Commission elects to have an evidentiary hearing, the Executive Director
shall set the matter for hearing pursuant to Business and Professions
Code sections 19870 and 19871, or pursuant to Business and Professions
Code section 19825 (conducted pursuant to Chapter 5 (commencing with
section 11500) of Part 1 of Division 3 of Title 2 of the Government
Code).

* * *

(2) If the hearing is to proceed pursuant to Business and
Professions Code sections 19870 and 19871, notice shall be

1 effected by the Commission, and the hearing before the
2 Commission shall be conducted pursuant to Business and
3 Professions Code section 19871:

4 (A) The Bureau or Commission staff or Deputy
5 Attorney General or other representative presenting the
6 case (Complainant) shall provide the applicant, at least 30
7 calendar days prior to the hearing, a list of potential
8 witnesses with the general subject of the testimony of each
9 witness and shall disclose and make available copies of all
10 documentary evidence intended to be introduced at the
11 hearing and not previously provided, reports or statements
12 of parties and witnesses and all other writings containing
13 relevant evidence, including all evidence made available
14 to the Commissioners. The applicant shall provide
15 Complainant with similar information to be introduced at
16 the hearing and not previously provided at least ten
17 calendar days prior to the hearing. The Commissioners
18 may prohibit testimony of a witness that is not disclosed
19 and may prohibit the introduction of documents that have
20 not been disclosed.

21 (B) Nothing in this section confers upon an applicant
22 a right to discovery of the Commission's or Bureau's
23 confidential information or to require production of any
24 document or information the disclosure of which is
25 otherwise prohibited by any provision of the Gambling
26 Control Act, or is privileged from disclosure or otherwise
27 made confidential by law. Documentary evidence may be
28 redacted as needed to prevent the disclosure of
confidential information. Exculpatory or mitigating
information shall not be withheld from the applicant, but
may be redacted.

(C) Within the guidelines of subsection (b)(2)(A)
above, each party shall have the right to call and examine
witnesses; to introduce relevant exhibits and documentary
evidence; to cross-examine opposing witnesses on any
relevant matter, even if the matter was not covered in the
direct examination; to impeach any witness, regardless of
which party first called the witness to testify; and to offer
rebuttal evidence. If the applicant does not testify on the
applicant's own behalf, the applicant may be called and
examined as if under cross-examination.

(D) The hearing need not be conducted according to
technical rules of evidence. Any relevant evidence may be
considered, and is sufficient in itself to support findings if

1 it is the sort of evidence on which responsible persons are
2 accustomed to rely in the conduct of serious affairs,
3 regardless of the existence of any common law or
4 statutory rule that might make improper the admission of
5 that evidence over objection in a civil action. A presiding
6 officer, which shall be an administrative law judge or an
7 attorney designated by the Commission, shall rule on the
8 admissibility of evidence and on any objections raised.

9 (E) Oral evidence shall be taken upon oath or
10 affirmation, which may be administered by a staff member
11 of the Commission or by a Commissioner.

12 (F) The hearing shall be stenographically or
13 electronically recorded by the Commission.

14 (G) At the conclusion of the hearing, the Commission
15 shall take the matter under submission and may schedule
16 future closed session meetings for deliberation. In taking
17 the matter under consideration, any Commissioner who
18 participated at the hearing shall be allowed to vote by mail
19 or by other appropriate method. Within 30 days of the
20 conclusion of the hearing, the Commission shall issue a
21 decision which complies with Business and Professions
22 Code section 19870, subdivision (c), and shall serve the
23 decision by certified mail on the applicant and on any
24 business entity with which the applicant is associated.

25 (3) At the hearings described in subsections (b)(1) and (2)
26 above, the burden of proof rests with applicant to demonstrate why
27 a license, permit, or finding of suitability should be issued or not
28 conditioned. The applicant may choose to represent himself,
herself, or itself, or may retain an attorney or lay representative at
his, her, or its own expense. A representative of the Bureau shall
present the reasons why the license, permit, or finding of suitability
should not be granted or should be granted with conditions
imposed. In the event that the Bureau does not present the case, the
Commission may seek outside representation or one or more
Commission staff members shall be segregated and present the
case.

(c) If the application is denied or conditions imposed:

(1) The Commission's decision shall provide the effective
date of the decision and may include further directions as to stay
provisions or orders to divest. (2) If the denied applicant is an
officer, director, employee, agent, representative, or independent
contractor of a corporation licensed, registered, or found suitable

1 by the Commission, the denied applicant shall resign according to
2 the date specified in the decision and shall so notify the
3 Commission in writing.

4 * * *

5 (6) An applicant denied a license, permit, registration, or
6 finding of suitability, or whose license, permit, registration, or
7 finding of suitability has had conditions imposed upon it may
8 request reconsideration by the Commission within 30 days of
9 notice of the decision. The request shall be in writing and shall
10 outline the reasons for the request, which must be based upon
11 either newly discovered evidence or legal authorities that could
12 not reasonably have been presented before the Commission's
13 issuance of the decision or at the hearing on the matter, or upon
14 other good cause for which the Commission in its discretion
15 decides merits reconsideration. The Commission Chair may
16 delegate to the Executive Director the authority to determine
17 whether to place requests for reconsideration on the Commission
18 agenda or to act on them at the Commission staff level. If placed
19 on the Commission agenda, the applicant requesting
20 reconsideration shall be notified of the date and time of the
21 agenda item. The granting or denial of reconsideration is at the
22 discretion of the Commission. The Commission shall notify the
23 applicant requesting reconsideration whether or not
24 reconsideration is granted or denied within 30 days of the
25 applicant's request. If the Commission grants reconsideration, the
26 effective date of the decision shall be stayed or vacated, at the
27 Commission's discretion, while the decision is reconsidered.
28

OTHER PERTINENT STATUTORY AND REGULATORY PROVISIONS

21. Business and Professions Code section 19805 provides in part as follows:

As used in this chapter, the following definitions shall apply:

* * *

23 (b) "Applicant" means any person who has applied for, or is about to
24 apply for, a state gambling license, . . . or an approval of any act or
25 transaction for which the approval or authorization of the commission or
26 department is required or permitted under this chapter.

* * *

26 (d) "Chief" means the head of the entity within the department that is
27 responsible for fulfilling the obligations imposed upon the department by
28 this chapter.

1 (e) "Commission" means the California Gambling Control
2 Commission.

3 * * *

4 (h) "Department" means the Department of Justice.

5 * * *

6 (p) "Gambling license" or "state gambling license" means any license
7 issued by the state that authorizes the person named therein to conduct a
8 gambling operation.

9 * * *

10 (aj) "Renewal license" means the license issued to the holder of an
11 initial license that authorizes the license to continue beyond the expiration
12 date of the initial license.

13 22. Business and Professions Code section 19851, subdivision (a) states:

14 The owner of a gambling enterprise shall apply for and obtain a
15 state gambling license. The owner of a gambling enterprise shall
16 be known as the owner-licensee.

17 23. Business and Professions Code section 19856, subdivision (a) states:

18 Any person who the commission determines is qualified to
19 receive a state license, having due consideration for the proper
20 protection of the health, safety, and general welfare of the residents
21 of the State of California and the declared policy of this state, may
22 be issued a license. The burden of proving his or her qualifications
23 to receive any license is on the applicant.

24 24. Business and Professions Code section 19857 provides in part as follows:

25 No gambling license shall be issued unless, based on all of the
26 information and documents submitted, the commission is satisfied that the
27 applicant is all of the following:

28 * * *

(b) A person whose prior activities, criminal record, if any, reputation,
habits, and associations do not pose a threat to the public interest of this
state, or to the effective regulation and control of controlled gambling, or
create or enhance the dangers of unsuitable, unfair, or illegal practices,
methods, and activities in the conduct of controlled gambling or in the
carrying on of the business and financial arrangements incidental thereto.

(c) A person that is in all other respects qualified to be licensed as
provided in this chapter.

- 1 a. State tax lien filed on August 29, 2003, in the amount of \$18,892.
- 2 b. Federal tax lien filed on December 29, 2004, in the amount of \$9,600.
- 3 c. State tax lien filed on November 3, 2005, in the amount of 4,781.
- 4 d. Federal tax lien filed on June 18, 2007, in the amount \$16,927.
- 5 e. Federal tax lien filed on January 26, 2009, in the amount of \$5,086.

6 While Respondent Owner presented evidence to the Bureau that from August 17, 2007,
7 through March 27, 2009, Respondent Owner through his designated agent had made three
8 payments to the Internal Revenue Service (IRS) totaling \$17,527, he has provided no other
9 evidence that the above tax balances plus applicable penalties have been satisfied. An October 1,
10 2009, statement from the IRS submitted by Respondent Owner's designated agent to the Bureau
11 set forth a total balance of \$156,931.11 for federal taxes, interest, and penalties owing by
12 Respondent Owner and his spouse.

13 30. On or about June 8, 2006, the Commission renewed Respondent Owner's State
14 Gambling License through April 30, 2007, subject to the following condition:

15 The gambling establishment is required to report every six (6) months
16 to the [Bureau] and the Commission the progress in its tax obligations.

17 31. On or about April 26, 2007, the Commission renewed Respondent Owner's State
18 Gambling License through April 30, 2008, subject to the same condition set forth in paragraph 30,
19 above.

20 32. On or about July 31, 2007, Respondent Owner through his designated agent submitted
21 a progress report on the payment of their tax obligations to the effect that he was employing a tax
22 consulting firm, Tax Inc., to assist in resolving their outstanding state and federal tax balances
23 owed.

24 33. On or about April 22, 2008, the Commission approved an extension of Respondent
25 Owner's renewal license to August 31, 2008 on the condition that the "gambling establishment
26 [Respondent Owner] establish a repayment program for the tax obligations and provide the
27 information to the Commission by July 30, 2008," including proof that payments of the taxes were
28 being made.

1 34. On or about August 19, 2008, a letter from Tax Inc. was submitted to the Bureau
2 stating to the effect that it had a power of attorney on behalf of Respondent Owner [and his wife's]
3 to represent him before the IRS and was working on resolution of the tax debt, and that such
4 resolution would take between 45 and 90 days from the date of the letter.

5 35. On or about August 28, 2008, the Commission approved an extension of Respondent
6 Owner's renewal license to September 30, 2008. On or about September 23, 2008, the
7 Commission approved an extension of Respondent Owner's renewal license to December 31,
8 2008, on the condition that:

9 The gambling establishment will establish a repayment program for their
10 tax obligation and provide the information to the Commission by
 November 30, 2008.

11 36. On or about November 14, 2008, a fax cover sheet from Tax Inc., was forwarded to
12 Commission staff that contained comments to the effect that Respondent Owner's tax debts would
13 be resolved within 30 days of the date of fax cover sheet under an installment agreement for
14 payments to the IRS of \$412 per month.

15 37. On or about December 11, 2008, the Commission approved the renewal of Respondent
16 Owner's State Gambling License through August 31, 2009 on the condition that:

17 The gambling establishment will send the Commission, no later than the
18 15th day of each month, documentation from the IRS substantiating
19 compliance with tax repayment obligations. The report will be due in
 January 2009 continuing until repayment has been completed.

20 38. On or about January 27, 2009, a fax cover sheet from Tax Inc., was forwarded to
21 Commission staff containing comments to the effect that the IRS had yet to make a determination
22 of the terms of the agreement under which Respondent Owner would make installment payments
23 on the tax debts.

24 39. On or about May 15, 2009, Commission staff sent a letter to the designated agent for
25 Respondent Owner to the effect that the Commission had not received "documentation
26 substantiating compliance with tax obligations" as per the condition set forth in his renewal
27 license.

1 40. On or about July 28, 2009, Commission staff sent a letter to the designated agent for
2 Respondent Owner to the effect that the Commission had not received documentation
3 substantiating compliance with the tax obligations as per the condition set forth in his renewal
4 license.

5 41. On or about August 13, 2009, Commission staff sent to Respondent Owner a letter
6 entitled "Commission Meeting Notification of Surrender of License and Order of Immediate
7 Closure of the Premises," based upon Respondent Owner's failure to submit an application to
8 renew his State Gambling License. The August 13, 2009, notification letter set forth that the
9 Commission would consider at its August 27, 2009, meeting Respondent Owner's failure to file an
10 application for renewal of his State Gambling License, the attendant surrender of his license, and
11 the closure of the gambling establishment. The Commission staff recommendation memorandum
12 that was included with the August 13, 2009, notification letter additionally set forth Respondent
13 Owner's continuing failure to provide to the Commission documentation substantiating
14 compliance with their tax obligations as per the condition set forth in his renewal license.

15 42. On or about August 27, 2009, Respondent Owner submitted an application for renewal
16 of his State Gambling License.

17 43. On or about August 27, 2009, the Commission staff acknowledged receipt of
18 Respondent Owner's license renewal application.

19 44. On or about September 9, 2009, the Commission approved an extension of
20 Respondent Owner's renewal license to November 30, 2009.

21 45. On or about October 15, 2009, Respondent Owner through his designated agent
22 submitted a letter to the effect that no agreement with the IRS for repayment of their back federal
23 taxes had been reached.

24 46. On or about November 3, 2009, Bureau staff sent a letter to Respondent Owner
25 through his designated agent requesting information regarding the payment of, or planned payment
26 of, the outstanding tax balances that were the subject of multiple state and federal liens.

27 47. On or November 17, 2009, Bureau staff received from the Respondent Owners'
28 designated agent a letter regarding Respondent Owner's tax situation to the effect that there

1 continued to be no repayment agreement with state and federal tax agencies and that the tax
2 obligations remained unresolved.

3 48. As set forth in paragraphs 8 and 9, above, on or about November 24, 2009, the
4 Commission considered Respondent Owner's application to renew his State Gambling License,
5 and denied it. On or about December 7, 2009, the Commission by letter notified Respondent
6 Owner of the Commission's denial of his application for renewal of his State Gambling License
7 and referral of the matter to the Commission's hearing process. In this December 7, 2009, letter,
8 the Commission additionally apprised Respondent Owner as follows:

9 Until the Commission has issued a final decision on your application,
10 you may continue to operate your gambling establishment under the
11 previous license issued on September 9, 2009, subject to the following
12 condition:

13 1. The gambling establishment will send the Commission, no later than
14 the 15th of day of each month, documentation from the Internal Revenue
15 Service (IRS) substantiating compliance with tax repayment obligations.
16 The first report will be due in January 2009 continuing until repayment has
17 been completed.

18 To date, no documentation "substantiating compliance with the tax repayment obligations"
19 as required in the December 7, 2009, letter and previous license renewals for Respondent Owner
20 has been received by the Commission.

21 49. Because of their long-standing continuing failure to resolve the state and federal tax
22 balances as referenced in conditions placed by the Commission on Respondent Owner's State
23 Gambling License from June 8, 2006, to date, Respondent Owner's application for renewal of his
24 State Gambling License is subject to denial under Business and Professions Code sections 19857,
25 subdivisions (b) and (c), 19859, subdivisions (a) and (b), and 19876.

26 **SECOND CAUSE FOR DENIAL OF RENEWAL LICENSE APPLICATION**

27 **(Failure to Submit Timely Submit Renewal Application)**

28 50. Complainant incorporates by this reference each and every allegation contained in
paragraphs 1 through 49, above, as though set forth herein full.

51. On or about March 11, 2009, Commission staff sent to Respondent Owner's
designated agent a letter notifying Respondent Owner that his State Gambling License was set to

1 expire on August 31, 2009, and that a renewal application for his State Gambling License was
2 required to be filed on or before April 30, 2009.

3 52. On or about June 12, 2009, Commission staff sent to Respondent Owner's designated
4 agent a letter notifying Respondent Owner that he had failed to file his renewal application by
5 April 30, 2009, and that he must submit his renewal license "immediately." This letter
6 additionally notified Respondent Owner that the failure to renew his State Gambling license might
7 result in disciplinary action being taken against his license.

8 53. On or about June 22, 2009, Commission staff spoke by telephone with the Respondent
9 Owner's designated agent and apprised her that the deadline for Respondent Owner's submission
10 of the renewal application was April 30, 2009. Respondent Owner's designated agent responded
11 to the effect that the renewal application would be submitted.

12 54. On or about July 28, 2009, Commission staff sent a letter to Respondent Owner
13 through his designated agent stating that the Commission had yet to receive Respondent Owner's
14 application for renewal of his State Gambling License and that his failure to submit it "may result
15 in the surrender of La Primavera's state gambling license and the immediate closure of La
16 Primavera."

17 55. On or about August 13, 2009, Commission staff sent a letter to Respondent Owner
18 through his designated agent notifying Respondent Owner that at the August 27, 2009, meeting of
19 the Commission it would consider the surrender of his state gambling for his continued failure to
20 file an application for renewal of his State Gambling License.

21 56. On or about August 27, 2009, Respondent Owner submitted his application for
22 renewal of his State Gambling License.

23 57. In failing to timely submit his application for renewal of his State Gambling License,
24 Respondent Owner violated Business and Professions Code section 19876, subdivision (b) and
25 Commission regulation 12344, subdivision (a) (Cal. Code Regs., tit. 4, § 12344, subd. (a)).
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PRAYER

WHEREFORE, Complainant requests that a hearing be held pursuant to the procedures set forth in Business and Professions Code sections 19870, 19871, and 19876 on the matters herein alleged, and that following the hearing, the Commission issue a decision:

1. Denying the application of Respondent Candelario Salas for renewal of his State Gambling License as the owner of La Primavera Pool Hall and Café;
2. Awarding Complainant, pursuant to subdivisions (d) and (f) of Business and Professions Code section 19930, the costs of investigation and costs of preparation and prosecution of this Statement of Issues before the Commission, in a sum according to proof; and
3. Taking such and further action as the Commission may deem appropriate.

Dated: March 15, 2012


MARTIN J. HORAN IV, Acting Chief
Bureau of Gambling Control
California Department of Justice
Complainant