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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Application for Renewal of
Key Employee Personal License for:

Naseem Salem
2724 El Cajon Boulevard
San Diego, CA 92104

Applicant

License No. GEKE-001211

BGC Case No. BGC-SD2010-00017
CGCC Case No. CGCC-2012--0314-3

DECISION AND ORDER

Hearing Date: August 28, 29 & September 3-
6, 2013
Time: 10:00 am, (9:00 am for August
28, 2013)

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, subdivision (b), in Sacramento, California, on August 28, 2013.

Ronald L. Diedrich and Jennifer Henderson, Deputy Attorneys General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California (collectively, Complainant).

Attorney Dorn G. Bishop represented applicant Naseem Salem as an individual.

Attorney Keith Sharp was also present on behalf of Naseem Salem.

The matter was submitted to the Commission on August 28, 2013.

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FACTUAL FINDINGS

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2 1. Applicant Naseem Salem has applied for the renewal of a Key Employee Personal
3 License in his role as the manager of Palomar.

4 2. On or about August 8, 2011, the Commission received an application from Naseem
5 Salem. This application was subsequently forwarded to the Bureau for investigation.

6 3. On October 14, 2011, the Bureau issued a report which recommended the Commission
7 deny Naseem Salem a license and listed eight reasons generally described as follows:

8 a. Mr. Salem, as the General Manager for Palomar, engaged in improper business
9 practices including: (Business and Professions Code sections 19905 and
10 19920; CCR sections 12388, 12401(b)).

11 i. Undocumented Cash Transactions; and,

12 ii. No set marker (credit) limit.

13 b. Mr. Salem, as the General Manager of Palomar, failed to ensure compliance
14 with regulations and Title 31 reporting requirements. (CCR sections 12404; 31
15 United States Code sections 5311-5330; 31 Code of Federal Regulations
16 Chapter X).

17 c. Under Mr. Salem's managerial oversight, Palomar created a funding source
18 relationship with ATS by extending credit to ATS. (Business and Professions
19 Code sections 19901, 19920, 19922, and 19984(a); CCR sections 12201(d) and
20 12204(g)) .

21 d. While Mr. Salem managed the cardroom's operation, Palomar failed to register
22 as an owner of ATS. (Business and Professions Code sections 19901 and
23 19920; CCR sections 12200.3(a), 12201(a) & (d), and 12200.7(b)(8), (b)(9),
24 (b)(11)).

25 e. While Mr. Salem managed the Palomar's operations, Palomar engaged in
26 house banking. (Penal Code 330.11; Business and Professions Code sections
27 19920, 19922, and 19984(a); CCR sections 12200.7(b)(8), (b)(9), (b)(11), and
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(e).

- f. Under Mr. Salem's purview, registrants of ATS provided services to Palomar while holding cardroom employee work permits for Palomar (Business and Professions Code sections 19920 and 19922; CCR sections 12200.7(b)(8), (b)(9), and (b)(11)).
- g. Under Mr. Salem's management of the cardroom operations, ATS registrants performed duties of Palomar employees listed below: (Business and Professions Code sections 19920, 19922, and 19984(a)).
 - i. Supervised cardroom operations;
 - ii. Conducted financial transactions;
 - iii. Counted table collections; and,
 - iv. Concurrent employment of persons by ATS and Palomar.
- h. Mr. Salem's business practices pose a threat to the effective regulation and control of controlled gambling. (Business and Professions Code sections 19801(d), 19856(e), 19857(b), 19920, and 19922).

4. On February 23, 2012, at a regularly scheduled Commission meeting, the Commission referred Naseem Salem's application to an evidentiary hearing based in part on the Bureau's recommendation for denial and on the statements made by the Bureau at the meeting.

5. On March 14, 2012, the Executive Director set the matter for a hearing to be conducted pursuant to Business and Professions Code sections 19870 and 19871 based on Commission regulation section 12050, subdivision (b).

6. On April 19, 2012, due to the very interrelated nature of the applications, the Executive Director ordered Naseem Salem's application hearing consolidated with the hearings for applications on the Initial State Gambling License for University Heights, LLC, Naseem Salem, and Adel Salem, as well as the applications for Renewal of State Gambling Licenses for Palomar and its partners Donald and Susan Staats, (the Staats).

7. On August 10, 2012, the Applicant was served the Bureau's Statement of Reasons for

1 Denial of License Renewal. This document omitted many of the reasons for denial provided in
2 the Bureau's Report. The Statement of Reasons only listed two bases for denial under Business
3 and Professions Code section 19857(b) based on violations of sections 19920 and 19924, which
4 are substantially similar to findings 11 and 12 below.

5 8. The Applicant was served with Notices of Hearing and Prehearing Conferences, on
6 April 19, 2012, May 22, 2012, April 26, 2013, and ultimately on May 24, 2013.

7 9. On July 17, 2013, a prehearing conference was held before Presiding Officer Jason
8 Pope, Staff Counsel of the Commission.

9 10. The Commission heard Case No. CGCC-2012-0314-3, and consolidated Case Nos.
10 CGCC-2012-0314-4 and CGCC-2012-0314-2 on August 28, 2013, and the matters were
11 submitted for Commission consideration.

12 *Applicant's Conduct*

13 11. Prior to November 2011, Naseem Salem, the manager and key employee of Palomar
14 and managing member of University Heights Associates, LLC, conducted business transactions
15 for his non-gaming business in the gambling establishment; used his position as manager and key
16 employee to require Palomar employees to aide in conducting these transactions; and/or, used his
17 position as manager and key employee to use Palomar's financial resources to conduct these
18 transactions:

19 a. On or about January 11, 2010, Naseem Salem directed Palomar's cage
20 cashier Amen Abraham, to pay \$10,000 in cash at the gambling establishment's
21 cage to Cynthia Morello the owner of Morello Concrete Construction, Inc.

22 (Morrello Concrete). The payment was for construction work performed for
23 Naseem Salem's benefit and in no way related to the operation of Palomar. The
24 source of the \$10,000 cash payment was Naseem Salem's "marker" at Palomar.

25 b. Between on or about December 16, 2009, and on or about February 8,
26 2010, Naseem Salem directed Palomar's assistant manager Sabrina Konja to make
27 three separate \$10,000 cash payments again to Cynthia Morello in the gambling
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1 establishment for construction work performed by Morello Concrete also again for
2 Naseem Salem's benefit. The work performed by Morello Concrete was in no
3 way related to the operation of Palomar. On or about December 16, 2009, on
4 behalf of, and at the direction of, Naseem Salem, Sabrina Konja made one of those
5 \$10,000 cash payments to Cynthia Morrello from cash withdrawn from Naseem
6 Salem's Palomar player's bank.

7 c. Between on or about January 29, 2010, and on or about March 19, 2010, on
8 three separate occasions, Naseem Salem paid Joseph Morrello of Morello Concrete
9 in cash payments in the gambling establishment for construction work performed
10 for Naseem Salem's benefit. Once again the work performed by Morrello
11 Concrete was not in any way related to the operation of Palomar.

12 12. Naseem Salem as the key employee and manager of Palomar, between on or about
13 March 1, 2006, and on or about November 21, 2011, allowed the function, operation, and control
14 of Palomar to intertwine with the then third party provider for Palomar ATS owned by Ablahad
15 Salim, Naseem Salem's uncle, in the following ways:

- 16 a. The contract between ATS and Palomar submitted by Naseem Salem to the
17 Bureau on behalf of Palomar did not reveal that ATS shared office space with
18 Palomar within the gambling establishment.
- 19 b. On at least three occasions when only one Palomar key employee was on duty
20 and was required by law to remain on the premises, Naseem Salem authorized
21 ATS employees to make large cash withdrawals from Palomar's bank account
22 on behalf of the gambling establishment for use by the gambling
23 establishment.
- 24 c. On at least one occasion, an ATS employee participated with a Palomar
25 employee in counting the table fee collections on behalf of Palomar.
- 26 d. Naseem Salem allowed ATS, a third-party proposition player provider, to
27 improperly locate a safe in Palomar's cage, from which ATS stored and
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1 accessed ATS funds.

2 13. The Bureau and Naseem Salem agreed that findings 11 and 12 was conduct which
3 violated Business and Professions Code sections 19920 and 19924 in that Naseem Salem failed to
4 operate the gambling establishment using suitable methods of operation and failed to maintain
5 adequate security controls.

6 14. Assistant Bureau Chief Stacey Luna-Baxter testified briefly about the application.
7 The Bureau had no evidence of any additional non-compliance by Naseem Salem or Palomar
8 after November 21, 2011, beyond a May 1, 2012 incident involving an ATM machine which
9 mistakenly allowed the use of an Electronic Benefit Transfer card (EBT). This matter was
10 subsequently corrected.

11 15. Naseem Salem testified convincingly that he understood the errors of his past conduct
12 and that the nature of the transactions that he undertook at Palomar violated California Law. He
13 further testified that he has since stopped these practices; and, he was certain that beyond the
14 specific conduct agreed to in the stipulations between the Bureau and Applicants, the allegations
15 raised in the Bureau's report were not true.

16 16. Elijah Zuniga testified as a gambling expert about a number of matters related to the
17 Bureau investigation and circumstances related to the Palomar, including a provocative raid that
18 occurred in the early morning hours at Palomar with more than 10 law enforcement agents
19 including those from the Bureau and the San Diego Police Department. Elijah Zuniga was hired
20 as a consultant for Palomar and routinely provides oversight and review for the Staats. This role
21 has appreciated over the years as the Staats have stepped back from the cardroom operations and
22 have moved out of state. Elijah Zuniga has provided assistance to the Cardroom in correcting the
23 prior deleterious behavior by Naseem Salem and in correcting the internal controls issues at
24 Palomar. Elijah Zuniga also assisted the Staats in hiring the new Third Party Provider at Palomar.
25 Elijah Zuniga stated that though he does not have a formal contract, he continues to work for
26 Palomar and the Staats in keeping the cardroom compliant.

27 17. Susan Staats briefly provided testimony, stating that her husband may have admitted
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1 to a reporter on or around March 14, 2012 that he didn't know much about the cardroom's
2 problems with the state and that the Staats had delegated many of the day to day operations of
3 Palomar to Naseem Salem.

4 LEGAL CONCLUSIONS

5 *Applicable Statutes and Regulations*

6 1. CCR section 12050, subdivision (b), states in part that, if the Commission elects to
7 have an evidentiary hearing, the Executive Director shall set the matter for hearing pursuant to
8 Business and Professions Code sections 19870 and 19871.

9 2. Business and Professions Code section 19856 states:

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

13 (b) An application to receive a license constitutes a request for a
14 determination of the applicant's general character, integrity, and ability to
participate in, engage in, or be associated with, controlled gambling.

15 (c) In reviewing an application for any license, the commission shall
16 consider whether issuance of the license is inimical to public health,
17 safety, or welfare, and whether issuance of the license will undermine
18 public trust that the gambling operations with respect to which the license
would be issued are free from criminal and dishonest elements and would
be conducted honestly.

19 3. Business and Professions Code section 19857 states, in relevant part:

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

21 (a) A person of good character, honesty, and integrity.

22 (b) A person whose prior activities, criminal record, if any, reputation,
23 habits, and associations do not pose a threat to the public interest of this
24 state, or to the effective regulation and control of controlled gambling, or
25 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.

26 4. Business and Professions Code section 19823 states:

27 (a) The responsibilities of the commission include, without limitation, all
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(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.

5. Business and Professions Code section 19824 provides in pertinent part:
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:

(a) Require any person to apply for a license, permit, registration, or approval as specified in this chapter, or regulations adopted pursuant to this chapter.

(b) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter or regulations adopted pursuant to this chapter, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved. The commission may condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling enterprise whether or not the commission takes action against the license of the gambling enterprise.

6. Business and Professions Code section 19920 provides in pertinent part:
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.

7. Business and Professions Code section 19924 provides in pertinent part:
Each owner licensee shall maintain security controls over the gambling premises and all operations therein related to gambling, and those security controls are subject to the approval of the commission.

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1 *Discussion*

2 8. There was uncontroverted evidence offered at the hearing, as listed above, that
3 Naseem Salem engaged in conduct which was not proper under the Gambling Control Act and the
4 Commission's regulations. This conduct violated Business and Professions Code sections 19920
5 and 19924. This conduct also reflected poorly on the Palomar and the Staats under Business and
6 Professions Code section 19857. Specifically, the failure to operate the gambling establishment
7 using suitable methods of operation and the failure to maintain adequate security controls both
8 tend to pose a threat to the public interest of this state and to the effective regulation and control
9 of controlled gambling.

10 9. This deleterious conduct warrants the imposition of conditions on Naseem Salem's
11 key employee license which would alleviate any threat to the public interest of this state and the
12 effective regulation and control of controlled gambling.

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1 **ORDER**

2 1. The application for renewal of Key Employee Personal License for Naseem Salem
3 is **APPROVED** with the following conditions:

4 a. Naseem Salem shall not seek, personally or through the use of any agents, any
5 credit from Palomar.

6 b. Naseem Salem, so long as he is employed at Palomar, is required to work for
7 the Staats in a manner such that the Staats are able to maintain control and
8 supervision of the Palomar including, but not limited to, the following:

9 i. Naseem Salem shall not engage in cash transactions, either directly or
10 indirectly through agents, at the Palomar cardroom for businesses that
11 are not directly related to the Palomar cardroom. This does not place
12 any limit on the usage of checks or similar items not involving cash.

13 ii. Naseem Salem is required to secure the Staats approval in advance of
14 the hiring and firing of all key employees and supervisors at the
15 Palomar. This approval shall be documented in writing.

16 iii. Naseem Salem is required to secure the Staats approval in advance of
17 the hiring and firing of all employees that are related to Naseem Salem,
18 either by blood or marriage. This approval shall be documented in
19 writing.

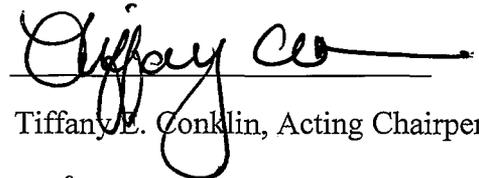
20 iv. Naseem Salem is required to secure the Staats approval in advance of
21 entering into any contracts involving the Palomar exceeding \$10,000 or
22 which have significant impact on the Palomar's operations. This
23 approval shall be documented in writing.

24 c. To the extent that Naseem Salem is unable to work with the Staats under
25 subsection (b) due to the lack of capacity of the Staats or his inability to
26 communicate with the Staats, Naseem Salem must immediately notify the
27 Bureau of his inability to comply with this condition.
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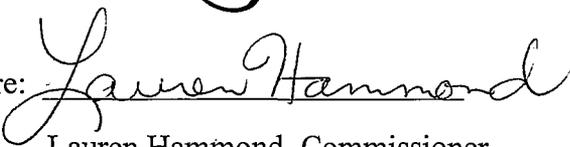
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- 2. No costs are to be awarded to the Bureau.
- 3. Each side to pay its own attorneys' fees.
- 4. This decision is effective 30 days from the date of this signed Decision and Order.

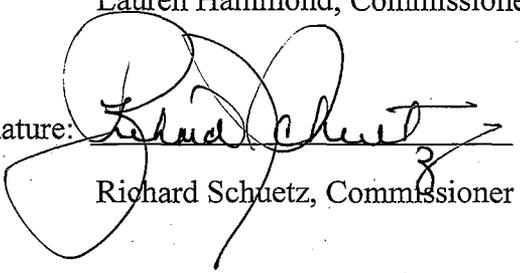
Dated: Sept 5, 2013

Signature: 
Tiffany E. Conklin, Acting Chairperson

Dated: 9-5-13

Signature: 
Lauren Hammond, Commissioner

Dated: September 5, 2013

Signature: 
Richard Schuetz, Commissioner

Chairman Richard J. Lopes recused himself from the hearing and consideration of this Application.