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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION  
STATE OF CALIFORNIA

In the Matter of the Application for Renewal of  
State Gambling License for:

Palomar Card Club, a General Partnership,  
d.b.a. Palomar Card Club.  
Donald Staats Partner  
Susan Staats, Partner  
2724 El Cajon Boulevard  
San Diego, CA 92104

Applicants

License No. GEGE-002377 (Palomar)  
GEOW-002374 (D. Staats)  
GEOW-002375 (S. Staats)

BGC Case No. BGC-SD2010-00017  
CGCC Case No. CGCC-2012-0314-2

**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 Steven L. Schreiner represented applicant Palomar Card Club, a General Partnership d.b.a. Palomar Card Club (Palomar), and Donald and Susan Staats, partners, (the Staats), (collectively, Applicants)

Attorney Keith Sharp was also present on behalf of all Applicants.

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

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1 **SUMMARY OF DECISION**

2 Applicants Palomar and the Staats have applied for the renewal of their respective State  
3 Gambling Licenses. Despite serious breaches in the past, the operations of Palomar now appear  
4 to be quite well run for a cardroom of its size and in good hands as it operates in the future. The  
5 numerous allegations of serious ongoing wrongdoing alleged by the Bureau in its October 14,  
6 2011, renewal background investigation report which recommended denial never materialized  
7 during a hearing on the merits. Indeed, the main witness testimony offered by the Bureau, was  
8 from Assistant Bureau Chief Stacey Luna-Baxter who assumed her position as Assistant Bureau  
9 Chief after the Bureau had submitted their report with a recommendation of denial, and testified  
10 to having limited knowledge of the circumstances underlying the Bureau report. At the close of  
11 the proceedings, all that remained for the Commission to consider were the serious, but  
12 encapsulated and correctable violations of internal controls as addressed below.

13 Due to the nature of how this matter evolved, it is apparent that the Commission in  
14 executing its lawful mission is heavily dependent upon the Bureau. It must have complete faith  
15 that the Bureau will provide investigative reports, documentation, and testimony that are highly  
16 credible and at all times accurate. It is unfortunate that in this matter, the inter-agency process  
17 was not as effective as it needs to be, leaving the Applicants to suffer and fight against phantom  
18 allegations. However, it is the belief of this Commission that this process has provided the  
19 Commission and Bureau the opportunity to learn and grow, and be better prepared to execute the  
20 laws of the state of California to serve the public, and indeed stakeholders such as the Applicants.

21 The Commission does not believe the specific facts provided at the hearing warrant  
22 finding the Palomar or the Staats unsuitable for licensure. Rather the imposition of license  
23 conditions resolve any dangers to public safety and the weakening of controlled gambling in the  
24 State of California.

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1 **FACTUAL FINDINGS**

2 1. Applicant Palomar, with partners Donald and Susan Staats hold State Gambling  
3 Licenses Numbered GEGE-002377, GEOW-002374 and GEOW-002375 respectively.

4 2. On or about July 29, 2011, the Commission received applications from Palomar and  
5 the Staats for the renewal of their State Gambling Licenses. These applications were  
6 subsequently forwarded to the Bureau for investigation.

7 3. On October 14, 2011, the Bureau issued a report which recommended the Commission  
8 deny Palomar and the Staats licenses and listed ten reasons generally described as follows:

- 9 a. The Staats failed to provide proper oversight at the Palomar which allowed for  
10 unsuitable methods of operation. (Business and Professions Code sections  
11 19920 and 19922; CCR sections 12380(a)(b)&(c)).
- 12 b. Palomar engaged in inappropriate business practices including: (Business and  
13 Professions Code sections 19905 and 19920; CCR sections 12386, 12388,  
14 12401(b))
- 15 i. Improper and Undocumented Cash Transactions;
- 16 ii. Inappropriate Use of Players Bank and Credit (Marker) by Mr. Salem;
- 17 iii. No Set Credit Limit for the Palomar General Manager; and,
- 18 iv. The Palomar Cage Failed to Record ATS Cage Transactions.
- 19 c. Palomar failed to submit an application for ATS Gaming, Inc. (ATS) as a  
20 funding source. (Business and Professions Code sections 19852, 19901, 19920,  
21 19922, and 19984(a); CCR sections 12200(b)(10), (b)(16)(B), (b)(16)(C),  
22 12201(d), 12200.7(b)(8) & (b)(9)).
- 23 d. Palomar allowed ATS to facilitate house banking within the cardroom. (Penal  
24 Code sections 330.11; Business and Professions Code sections 19920, 19922,  
25 and 19984(a); CCR sections 12200.7(b)(8), (b)(9), (b)(11), (e),  
26 12200.9(a)(1)(c)).
- 27 e. Palomar failed to file the required currency transaction reports in compliance  
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1 with Title 31 and MICS reporting. (CCR sections 12386 and 12404; 31 United  
2 States Code sections 5311-5330; 31 Code of Federal Regulations Chapter X).

- 3 f. Palomar allowed ATS employees to hold cardroom employee work permits,  
4 while providing third-party services to the cardroom. (Business and  
5 Professions Code sections 19920 and 19922; CCR sections 12200.7(b)(8),  
6 (b)(9), (b)(11)).
- 7 g. Palomar failed to ensure that ATS, while conducting business in the cardroom,  
8 adhered to all state and local laws and regulations. (Business and Professions  
9 Code sections 19857(a) & (b); 19859(a) & (b); CCR sections 12200.7(b)(22)).
- 10 h. Palomar and ATS failed to disclose all agreements regarding the approved  
11 third-party contracts. (Business and Professions Code sections 19984(a); CCR  
12 sections 12200.7(b)(22), 12200.10B(b)).
- 13 i. Palomar and ATS have commingled their duties and responsibilities, listed  
14 below, which gives the appearance of collusive arrangements in the following  
15 ways: (Business and Professions Code sections 19984(a); CCR  
16 12200.9(a)(1)(C) & (a)(1)(D)).
- 17 i. Supervising Cardroom Operations;
  - 18 ii. Conducting Financial Transactions;
  - 19 iii. Counting Table Collections;
  - 20 iv. The Palomar Card Club Management and Surveillance Personnel  
21 Shared Office Space with ATS;
  - 22 v. The Palomar Assistant Manager Performed Administrative Tasks for  
23 ATS; and,
  - 24 vi. Managing Cardroom Operations.
- 25 j. The Staats failed to properly ensure that the gambling establishment complied  
26 with regulatory requirements as further evidenced by three letters of warning.  
27 (Business and Professions Code sections 19857(a), (b) & (c); CCR 12403;  
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1 Title 11, CCR section 2053).

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

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

8 6. On April 19, 2012, due to the very interrelated nature of the applications, the  
9 Executive Director ordered Palomar and the Staats' hearing consolidated with the hearings for  
10 applications on the renewal of Key Employee Personal License for Naseem Salem, as well as the  
11 application for Initial State Gambling License for University Heights Associates, LLC, Naseem  
12 Salem and Adel Salem.

13 7. On August 10, 2012, all the parties were served the Bureau's Statement of Reasons for  
14 Denial of License Renewal. This document omitted many of the reasons for denial provided in  
15 the Bureau's Report. The Statement of Reasons only listed two bases for denial under Business  
16 and Professions Code section 19857(b) based on violations of sections 19920 and 19924, which  
17 are substantially similar to findings 11 and 12 below.

18 8. The parties were served with Notices of Hearing and Prehearing Conferences, on April  
19 19, 2012, May 22, 2012, April 26, 2013, and ultimately on May 24, 2013.

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

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

25 *Applicants' Conduct*

26 11. Prior to November 2011, the Staats as owners of Palomar, failed to provided oversight  
27 of the gambling establishment operations, which allowed Naseem Salem, the manager and key  
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1 employee of Palomar, to conduct business transactions for his non-gaming business in the  
2 gambling establishment; to use his position as manager and key employee to require Palomar  
3 employees to aide in conducting these transactions; and/or, to use his position as manager and key  
4 employee to use Palomar's financial resources to conduct these transactions:

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

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

11 b. Between on or about December 16, 2009, and on or about February 8,  
12 2010, Naseem Salem directed Palomar's assistant manager Sabrina Konja to make  
13 three separate \$10,000 cash payments again to Cynthia Morello in the gambling  
14 establishment for construction work performed by Morello Concrete also again for  
15 Naseem Salem's benefit. The work performed by Morello Concrete was in no  
16 way related to the operation of Palomar. On or about December 16, 2009, on  
17 behalf of, and at the direction of, Naseem Salem, Sabrina Konja made one of those  
18 \$10,000 cash payments to Cynthia Morrello from cash withdrawn from Naseem  
19 Salem's Palomar player's bank.

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

25 12. The Staats also failed to provide oversight of the gambling establishment's operations,  
26 which allowed Naseem Salem to intertwine the function, operation and control of Palomar and  
27 ATS owned by Ablahad Salim, Naseem Salem's uncle, in the following ways:  
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- 1 a. The contract between ATS and Palomar submitted by Naseem Salem to the  
2 Bureau on behalf of Palomar did not reveal that ATS shared office space with  
3 Palomar within the gambling establishment.
- 4 b. On at least three occasions when only one Palomar key employee was on duty  
5 and was required by law to remain on the premises, Naseem Salem authorized  
6 ATS employees to make large cash withdrawals from Palomar's bank account  
7 on behalf of the gambling establishment for use by the gambling  
8 establishment.
- 9 c. On at least one occasion, an ATS employee participated with a Palomar  
10 employee in counting the table fee collections on behalf of Palomar
- 11 d. Naseem Salem allowed ATS, a third-party proposition player provider, to  
12 improperly locate a safe in Palomar's cage, from which ATS stored and  
13 accessed ATS funds.

14 13. The Bureau and Palomar agreed that findings 11 and 12 was conduct which violated  
15 Business and Professions Code sections 19920 and 19924 in that Naseem Salem failed to operate  
16 Palomar using suitable methods of operation and failed to maintain adequate security controls.

17 14. Assistant Bureau Chief Stacey Luna-Baxter testified briefly about the applications.  
18 The Bureau had no evidence of any additional non-compliance by Palomar after November 21,  
19 2011, beyond a May 1, 2012 incident involving an ATM machine which mistakenly allowed the  
20 use of an Electronic Benefit Transfer card (EBT). This matter was subsequently corrected.

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

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

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

## 14 15 **LEGAL CONCLUSIONS**

### 16 *Applicable Statutes and Regulations*

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

20 2. Business and Professions Code section 19856 states:

21 (a) Any person who the commission determines is qualified to receive a  
22 state license, having due consideration for the proper protection of the  
23 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.

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

26 (c) In reviewing an application for any license, the commission shall  
27 consider whether issuance of the license is inimical to public health,  
28 safety, or welfare, and whether issuance of the license will undermine  
public trust that the gambling operations with respect to which the license

1 would be issued are free from criminal and dishonest elements and would  
2 be conducted honestly.

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

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

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

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

14 4. Business and Professions Code section 19823 states:

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

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

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

26 (b) For the purposes of this section, "unqualified person" means a  
27 person who is found to be unqualified pursuant to the criteria set forth  
28 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

1 individual owner endorsed on the license certificate of the gambling  
2 enterprise whether or not the commission takes action against the  
3 license of the gambling enterprise.

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

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

13 7. Business and Professions Code section 19924 provides in pertinent part:

14 Each owner licensee shall maintain security controls over the gambling  
15 premises and all operations therein related to gambling, and those security  
16 controls are subject to the approval of the commission.

17 *Discussion*

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

26 9. This deleterious conduct warrants the imposition of conditions on Palomar and the  
27 Staats' licenses which would alleviate any threat to the public interest of this state and the  
28 effective regulation and control of controlled gambling.

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1 **ORDER**

2 1. The applications for renewal of the State Gambling Licenses numbered GEGE-  
3 002377, GEOW-002374 and GEOW-002375 for Palomar with partners Donald and Susan Staats  
4 respectively, are **APPROVED** with the following conditions:

5 a. Palomar shall not extend credit to Naseem Salem, personally or through the  
6 use of any agents, while Naseem Salem is employed at the cardroom. The  
7 Staats are to maintain control and supervision of the Palomar including, but not  
8 limited to, the following:

9 i. The Staats and Palomar shall not allow Naseem Salem or any key  
10 employee to engage in cash transactions at the Palomar cardroom for  
11 businesses that are not directly related to the Palomar cardroom. This  
12 does not place any limit on the usage of checks or similar items not  
13 involving cash.

14 ii. The Staats are required to approve the hiring and firing of all key  
15 employees and supervisors at the Palomar. This approval shall be  
16 documented in writing.

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

20 iv. The Staats are required to approve all contracts with the Palomar  
21 exceeding \$10,000 or which have significant impact on the Palomar's  
22 operations. This approval shall be documented in writing.

23 v. Ablahad Salim is not to be employed at Palomar in any capacity and his  
24 services as a Third Party Provider, individually or through a business  
25 organization he owns and operates, shall also not be contracted for or  
26 provided at the cardroom.

27 b. Palomar and the Staats shall hire a California licensed Certified Public  
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1 Account (CPA) which shall be acceptable to the Bureau, in its sole discretion,  
2 to perform an independent audit of Palomar according to Generally Accepted  
3 Accounting Principles. This first audit must be completed within 180 days of  
4 the effective date of this decision and submitted to the Bureau for review. In  
5 addition, Palomar shall hire a CPA to conduct a second audit under the same  
6 standards as above, one year from the completion of the first audit, so that the  
7 Commission will have one full year of Palomar's operations for review upon  
8 the next renewal date of Palomar and the Staats' license.

9 c. Any new lease, modification of an old lease, or amendments or addendums to  
10 the current lease between University Heights, LLC and the Palomar are to be  
11 approved by the Commission in advance of the effective date of the lease.

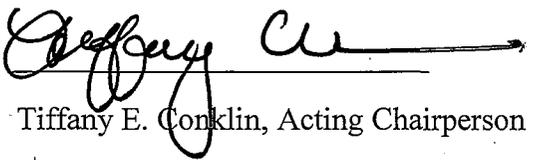
12 d. To the extent that the Staats are unable to comply with the conditions in  
13 subsections (a), (b) or (c), due to the lack of capacity or otherwise, they shall  
14 continuously retain a designated agent on file with the Commission and Bureau  
15 with authority to comply with item i) and ii) below. The designated agent shall  
16 immediately:

- 17 i. Notify the Bureau of the inability of the Staats to comply with
- 18 conditions (a), (b), and (c) above; and,
- 19 ii. The designated agent, within 10 days of the Staats' incapacity, shall
- 20 select someone as the Staats' 'proxy-agent' for the supervision and
- 21 control of Palomar and such proxy-agent shall within 15 days of
- 22 assuming their position apply for a license as someone who has a
- 23 significant influence over the gambling operation as defined in
- 24 Business and Profession Code subdivision 19852(i).

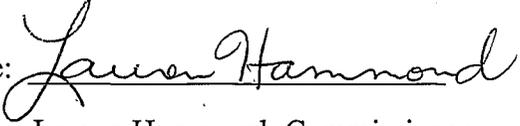
- 25 2. No costs are to be awarded to the Bureau.
- 26 3. Each side to pay its own attorneys' fees.
- 27 4. This decision is effective 30 days from the date of this signed Decision and Order.
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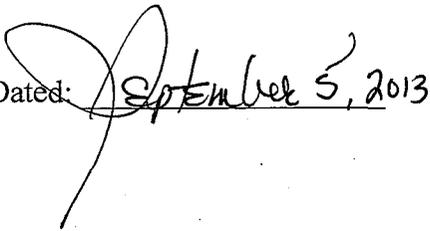
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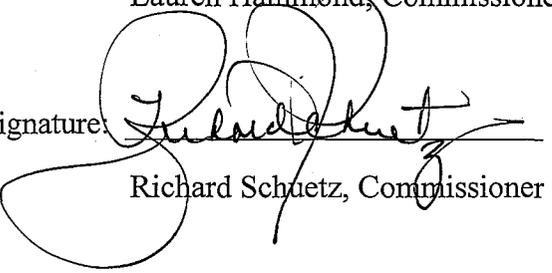
Dated: Sept. 5, 2013

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 these Applications.