BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: ROBERT SAUCIER, and GALAXY GAMING OF CALIFORNIA, LLC, Respondents.	OAH No. 2010031918

PROPOSED DECISION

Administrative Law Judge (ALJ) Catherine B. Frink, Office of Administrative Hearings (OAH), State of California, heard this matter in Sacramento, California, on the following dates: June 13-17 and 20-24, 2011; and January 3-6, 9-13, 17-20, and February 15-16, 2012.

William L. Williams, Jr., Deputy Attorney General, represented the complainant, Jacob Appelsmith, acting in his official capacity as Chief of the Bureau of Gambling Control of the California Department of Justice.

Derek C. Decker, Attorney at Law, Radoslovich Law Corporation, represented Robert Saucier (respondent Saucier) and Galaxy Gaming of California, LLC (GGCA) (collectively respondents).

After the hearing concluded on February 16, 2012, the parties submitted correspondence, briefs, and evidence, and filed various motions, all of which were marked and made part of the record, along with orders issued by the ALJ. An index of post-hearing documents is appended as Attachment A and incorporated by reference. By Order dated January 4, 2013, the record was closed and the matter was submitted for decision.

SUMMARY OF DECISION

Respondents have each submitted an Application for a Finding of Suitability to act as a gaming resource supplier to California Indian Tribes. Cause exists to deny both applications. As discussed below, respondents provided untrue and/or misleading information, and/or failed to disclose material facts on their applications; respondent Saucier

engaged in activities that created the danger of unsuitable, unfair or illegal practices, methods, and activities in the conduct of controlled gambling, particularly as his conduct pertained to the operation of the Mars Hotel and Casino in the State of Washington; and respondent Saucier's conduct demonstrated a lack of honesty and integrity. While respondents pointed to the fact that their various entities have operated in California since 1999 without incident, they ignored the fact that those entities have been able to do so, in large part, because of respondents' own dilatory tactics during the application and appeal process. Therefore, respondents did not sustain their burden to prove that they meet the criteria for a finding of suitability, and the applications should be denied.

PROCEDURAL MATTERS

Amendments to Statement of Issues

1. On May 11, 2012, complainant submitted his Post-Hearing Opening Brief (COB) (Exhibit 121). In the COB, complainant identified numerous proposed amendments to the 2009 Statement of Issues (SOI) (Exhibit 1), to conform to proof. In accordance with the May 17, 2012 Status Conference Summary (Exhibit 122), complainant filed Amendments to Statement of Issues, dated May 25, 2012 (Exhibit 123), in which complainant dismissed various allegations in the original SOI, renumbered the subparagraphs of certain charging paragraphs, and added a new subparagraph 5 to Paragraph 44.D, as follows:

A. Paragraph 44.C: Delete subparagraph 2 (SOI, p. 12:26)

B. Paragraph 44.D: Delete subparagraphs 1 through 11, 14, and 17 through 21 (SOI, pp. 13:1-14:6; 14:14-16; 14:24-15:12). Renumber subparagraph 12 to 1, subparagraph 13 to 2, subparagraph 15 to 3, and subparagraph 16 to 4. Add new subparagraph 5 as follows:

> 5) United States District Court, Western District of Washington at Tacoma; plaintiffs Robert Saucier and Galaxy Gaming Corporation; defendants State of Washington, Washington State Gambling Commission, Lawrence Yokoyama, and Ben Bishop; Case No. C00-5770, filed December 28, 2000; Complaint for damages.

C. Paragraph 44.E: Delete the word "gaming" (SOI, p. 15:13), and delete subparagraphs 3 through 5, 8, 9, 11, 22, 23, and 25 (SOI, pp. 15:17-19; 15:22-23; 15:25; 16:7-8; 16:10).

D. Delete SECOND CAUSE FOR DENIAL OF APPLICATION, including paragraph 45 and its subparagraphs (SOI, p. 17:6-16).

E. Paragraph 46.A: Delete subparagraphs 3 and 5 (SOI, p. 19:9, and 19:11).

F. Paragraph 46.B: Delete paragraph 46.B (SOI, p. 19:20-22).

2. In the COB, complainant proposed the following additional amendments to conform to proof:

A. COB, page 21: Amend Paragraph 44.H. to read as follows: "Respondents failed to disclose a denial of applications for finding of suitability by the Tule River Tribal Gaming Commission, as required on the Business Applications." (SOI, p. 16:17-18.)

B. COB, page 22: Amend Paragraph 44.I. to read as follows: "As required on the Business Application, Respondents failed to disclose the denial of an application for findings of suitability with the Colusa Indian Gaming Commission." (SOI, p. 16:19-20.)

C. COB, page 23: Amend Paragraph 44.J to read as follows: "As required on the Business Application, Respondents failed to disclose gaming licenses held with the Berry Creek Rancheria Gaming Commission, the Paskenta Gaming Authority, and the Viejas Tribal Gaming Commission." (SOI, p. 16:21-23.)

3. Respondents were ordered to file a separate document, apart from their post-trial brief, indicating whether or not they opposed the amendments. When respondents filed their Post-Hearing Opening Brief (ROB) (Exhibit G13), they did not submit a separate document objecting to any of the proposed amendments to the SOI.[1] Therefore, complainant's Amendments to Statement of Issues were accepted, and made part of the record for jurisdictional purposes.

Complainant's Request for Official Notice

4. On October 1, 2012, complainant filed a Request for Official Notice of the following documents: "In the Matter of the Suspension or Revocation of the License to

[1] Respondents addressed the matters set forth in proposed Paragraph 44.D.5 in their Post-Trial Brief.

Conduct Gambling Activities of: Galaxy Gaming, Inc., a Las Vegas, Nevada, Licensee; Case No. CR 2010-00909 – NOTICE OF ADMINISTRATIVE CHARGES AND OPPORTUNITY FOR AN ADJUDICATIVE PROCEEDING, dated March 14, 2012." (Exhibit 129.) On November 20, 2012, respondents filed their Opposition to Request for Official Notice, and requested that the record be reopened to permit the taking of addition evidence if the Request for Official Notice was granted. (Exhibit I13.) Complainant filed his Reply on November 30, 2012. (Exhibit 130.)[2]

5. At a December 6, 2012 Status Conference, the ALJ indicated that, if the Request for Official Notice was granted, this would mean that the ALJ was taking official notice of the fact that charges had been filed against Galaxy Gaming, Inc. by the Washington State Gambling Commission, and not the truth of the matters alleged in the Notice of Administrative Charges. The ALJ granted the Request for Official Notice on December 11, 2012, and gave respondents the opportunity to reopen the record for further hearing and oral argument on the issues raised by the Request for Official Notice

6. By letter dated December 19, 2012, respondents indicated that they did not wish to reopen the record for further hearing. Respondents "request[ed] the opportunity to have official notice taken of any future settlement action (i.e. an agreed order) relative to the Washington proceeding, should such action occur before final decision in this proceeding."

7. By letter dated December 19, 2012, complainant stated that he was "prepared to submit this matter on the terms set forth in the Status Conference Summary and Notice of Telephonic Status Conference, dated December 11, 2012." The letter further stated:

> Additionally, we have no objection to Mr. Decker's request for "the opportunity to have official notice taken of any future settlement action (i.e., an agreed order) relative to the Washington proceeding, should such action occur before final decision in this proceeding." However, Complainant requests permission to submit the final resolution of the Washington proceeding, whether it be a settlement, an administrative adjudication, or otherwise, for possible official notice by the Commission, should such resolution occur before a final administrative decision in this proceeding.

8. By email message dated January 2, 2013, respondents notified OAH and opposing counsel that they had no objection to the matters stated in Complainant's letter of December 19, 2012, and were "agreeable to closing the record."

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[2] Respondents filed a Motion to Augment the Record, dated November 19, 2012, (Exhibit J13) which was opposed by complainant (as part of Exhibit 130). Respondents withdrew their motion at the December 6, 2012 status conference.

FACTUAL FINDINGS

Background

The Bureau of Gambling Control

1. Pursuant to Business and Professions Code sections 19826, subdivision (a), and 19868, and California Code of Regulations, title 4 (4 CCR) section 12050, complainant filed the Statement of Issues on September 24, 2009.

2. At all times pertinent, the Bureau of Gambling Control (BGC) was statutorily designated as the Division of Gambling Control, and the Chief of the BGC was designated as the Director of the Division of Gambling Control. Subsequently, the Attorney General reconstituted the Division of Gambling Control as the BGC (see Gov. Code, §§ 15001.1 and 15002.5) and the Gambling Control Act was later amended to substitute the Department of Justice, or "department," for all statutory references to the Division. For consistency, all references will be to the BGC, irrespective of whether the agency at the time referred to was statutorily designated as the BGC or the Division of Gambling Control.

The Galaxy Entities

3. Galaxy Gaming Corporation (GGCORP), a Nevada corporation, was formed on October 7, 1997, and dissolved on an exact date not established by the evidence. GGCORP was owned by respondent Saucier (56.66 percent), Therese Watson (33.33 percent), and Rockland Ridge Corp. (11.11 percent).[3]

4. Galaxy Gaming, LLC (GGLLC), was formed by respondent Saucier on September 27, 2000. GGLLC is owned by respondent Saucier (50 percent – voting) and Alixandra Saucier (50 percent – nonvoting), with respondent Saucier as the manager. In 2002, GGLLC acquired the business and assets of GGCORP.

5. Galaxy Gaming of California, LLC (GGCA), was formed by Robert Ptacek on July 23, 2002, and dissolved on January 14, 2010. At the time of initial formation, the Estate of Alixandra Saucier held a 95 percent non-voting membership interest, and respondent Saucier held a five percent voting membership interest. GGLLC was the manager of GGCA, but held no membership interest in GGCA. On January 7, 2003, respondent Saucier became 100 percent owner/sole member of GGCA.

6. In addition to GGCA, Mr. Ptacek formed several other Galaxy Gaming limited liability companies (collectively, the GG affiliates), including Galaxy Gaming of Washington, LLC (GGWA) and Galaxy Gaming of Oregon, LLC (GGOR). GGWA was

[3] Gary Saul is the President/Secretary/Treasurer and sole shareholder of Rockland Ridge, Inc.

formed on October 4, 2001, and dissolved on March 12, 2012. GGWA was owned by respondent Saucier (55.56 percent), Therese Watson[4] (33.33 percent) and Rockland Ridge Corp. (11.11 percent), and GGLLC was the manager. GGOR was owned by respondent Saucier (five percent – voting) and Alixandra Saucier (95 percent – nonvoting), and GGLLC was the manager.

7. Galaxy Gaming, Inc. (GGINC), a Nevada corporation, was formed on December 31, 2006 by respondent Saucier. GGINC is a publicly traded corporation with more than 300 shareholders. As of March 2011, the board of directors included respondent Saucier, Bill O'Hara, and Daniel Scott. Current officers included respondent Saucier, President and CEO; Bill O'Hara, COO; and Andrew Zimmerman, CFO, Treasurer, and Secretary. According to Mr. Zimmerman, respondent has a 70 percent ownership interest in GGINC, held in trust by Triangulum Partners, LLC.

8. On January 1, 2007, GGLLC entered into several agreements with GGINC. Pursuant to these agreements, GGLLC sold selected assets, such as inventory and fixed assets, to GGINC. On December 31, 2007, GGINC acquired, through an asset purchase agreement, GGLLC's remaining intellectual property including patents, patent applications, trademarks, trademark applications, copyrights, know-how and trade secrets related to the casino gaming services including but not limited to games, side bets, inventions, and ideas. GGINC also acquired the existing client base from GGLLC.[5]

9. GGCA ceased doing business in 2007, and its license agreements and business operations were taken over by GGINC. At the time of GGCA's dissolution in January 2010, GGINC was the sole member of GGCA, and GGCA transferred "all interests in contracts, receivables, and assets of every nature, known and unknown," to GGINC.

10. As of 2012, GGINC is the only Galaxy Gaming entity currently holding licenses with California Indian Tribes.

11. At all times pertinent, GGCORP, GGLLC, and GGINC have been in the business of designing casino table games played in gaming establishments. The game concepts and the intellectual property associated with these games are typically protected by patents, trademarks, and copyrights. Clients pay royalties in the form of recurring revenues based upon a negotiated monthly fee.

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[4] Ms. Watson is sometimes referred to in the record as Therese Saucier.

[5] According to respondent Saucier, GGINC acquired all of the GG affiliates, and "everything was consolidated" as GGINC, and "is operated as one company." All of the GG affiliates had been dissolved as of the date of hearing except for GGWA, which was subsequently dissolved on March 12, 2012. GGLLC has continued to exist after 2007, but it has no business functions. It has not been dissolved, due to outstanding loans between GGLLC and GGINC.

12. At hearing, respondent Saucier explained the reasons why he formed GGLLC and the various GG affiliates. While respondent was the majority shareholder of GGCORP, he became subject to a large judgment as a personal guarantor of a debt owed to Sherron Associates (the Sherron Judgment).[6] Respondent Saucier was advised by his attorney at the time to form a limited liability company to avoid the possible seizure of his stock by the judgment creditor. Respondent Saucier was also concerned that, if his stock was seized, he would lose control of GGCORP. Respondent Saucier testified that he believed it would be more efficient to form limited liability companies for each state where GGLLC hoped to do business because each jurisdiction had its own licensing and recordkeeping requirements. While respondent Saucier anticipated that having the GG affiliates would streamline the regulatory process, it did not. As a principal, and manager of GGLLC (which in turn was the manager of each GG affiliate), respondent Saucier was required to provide information about himself and GGLLC in each jurisdiction, and the manner in which each of the GG affiliates was operated reflected on his suitability in any given state/jurisdiction. Thus, respondent Saucier described the GG affiliates as a "false economy," since the regulators in each jurisdiction "wanted to look at everything." Business operations were further complicated by the fact that each GG affiliate had its own taxpayer identification number and bank account. This led respondent Saucier to form GGINC, and merge the operations of the GG affiliates into GGINC.

GGCA Relationship to GGLLC and Other Limited Liability Companies

13. On July 29, 2002, GGCA entered into a Limited Liability Company Management Operating Agreement with GGLLC, effective July 23, 2002. GGCA agreed to pay GGLLC a management fee equal to 32 percent of the gross recurring revenues of GGCA. Respondent Saucier signed the Management Operating Agreement as a member of GGCA and as the manager or GGLLC.

14. On July 23, 2002, GGLLC (as the licensor) and GGCA (as the licensee) entered into an Intellectual Property License Agreement authorizing GGCA to enter into sub-licensing agreements with casinos in jurisdictions where GGCA was approved to conduct business for the rights to various live casino table games, including "Lucky Ladies," "Texas Shootout," and "Emperor's Challenge." The sub-licensing agreements "shall be in the form and at the rates provided or determined by the Licensor." GGCA agreed to pay GGLLC 35 percent of the gross revenues collected by GGCA. Respondent Saucier signed the Intellectual Property License Agreement as the authorized representative of GGLLC and as the authorized representative of GGCA.

15. GGCA had no employees. GGLLC, as the manager of GGCA, contracted with other companies for all business-related services. As the manager of GGLLC,

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[6] Matters pertaining to the Sherron Judgment are addressed in Findings 107 and 212 through 213.

respondent Saucier was responsible for the business decisions of GGLLC, and, through GGLLC, GGCA. As respondent Saucier testified, he was "the manager of the manager."

16. GGLLC contracted with Outsource Management, LLC (Outsource) to provide office and bookkeeping services for GGLLC and the GG affiliates, including GGCA. Outsource (initially formed with respondent Saucier and Therese Watson each holding 50 percent membership interests) in turn entered into agreements with individual limited liability companies for various office-related services, including Durango Associates, LLC (Therese Watson, member); Essential Essence Enterprises, LLC (Robin King, member); and JNR Enterprises, LLC (Joan Cross, member, along with her husband Ron Cross).

17. On July 1, 2002, GGCA entered into a gaming services agreement with Primetime Player Management, LLC (Primetime) for Primetime to provide sales, marketing, and customer support and other services to GGCA's clients in California. Respondent Saucier signed the gaming services agreement as the authorized representative of GGLLC, the manager of GGCA. Joseph Purcell was the sole manager of Primetime. GGCA agreed to pay Primetime 30 percent of the adjusted gross revenues received by GGCA within California for each billing period. According to respondent Saucier, Mr. Purcell was authorized to sign license agreements with California Indian Tribes on behalf of GGLLC, and later GGCA, with prior approval of respondent Saucier.

License Agreements and Applications with California Indian Tribes

18. GGLLC and GGCA sought to act as gaming resource suppliers licensing intellectual property to California Indian Tribes under tribal-state gaming compacts in effect between the State of California and participating tribes.[7]

19. On April 20, 2002, Mr. Purcell, as the authorized representative of GGLLC as the licensor, entered into a Lucky Ladies License Agreement with the Cahuilla Creek Casino.

20. On June 20, 2002, Mr. Purcell, as the authorized representative of GGLLC as the licensor, entered into a Lucky Ladies License Agreement with the Blue Lake Casino. On September 3, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Blanket License Agreement with Blue Lake Casino, with a recurring monthly license fee of $2,200.

21. On June 27, 2002, Mr. Purcell, as the authorized representative of GGLLC as the licensor, entered into a Lucky Ladies License Agreement with the Gold Country Casino.

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[7] The parties agreed that the tribal-state compact between the State of California and the Tule River Indian Tribe (Compact) was representative of the provisions typically contained in tribal-state compacts between the State of California and Indian tribes in California.

22. On June 27, 2002, Mr. Purcell, as the authorized representative of GGLLC as the licensor, entered into a Lucky Ladies License Agreement with Rolling Hills Casino. On February 7, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Texas Shootout License Agreement with Rolling Hills Casino.

23. On July 23, 2002, Mr. Purcell, as the authorized representative of GGLLC as the licensor, entered into a Lucky Ladies License Agreement with the Mono Wind Casino.[8]

24. On an exact date not established by the evidence, Mr. Purcell, as the authorized representative of GGLLC as the licensor, entered into a Lucky Ladies License Agreement with Jackson Rancheria. On February 28, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Texas Shootout License Agreement with Jackson Rancheria. On August 2, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Blanket License Agreement with Jackson Rancheria Casino, with a recurring monthly license fee of $2,200.

25. On December 5, 2002, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Lucky Ladies License Agreement with Valley View Casino. On January 16, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Texas Shootout License Agreement with Valley View Casino. On August 20, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Lucky Ladies Blanket License Agreement with Valley View Casino, with a recurring monthly license fee of $2,000.

26. On January 10, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Lucky Ladies License Agreement with the Chumash Casino, for the period December 1, 2002, through September 30, 2003.

27. On March 24, 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Lucky Ladies License Agreement with the Feather Falls Casino. In August of 2003, Mr. Purcell, as the authorized representative of GGCA as the licensor, entered into a Blanket License Agreement with Feather Falls Casino, with a recurring monthly license fee of $1,000.

28. As of April 19, 2004, GGCA and/or GGLLC had submitted license applications to California Indian Tribes, as follows:

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[8] Respondents submitted into evidence a Lucky Ladies License Agreement between Mono Wind Casino and GGCORP, indicating a start date in 2000. The agreement was signed by Michael B. Troilo, General Manager of Mono Wind; the signature block for GGCORP, to be signed by its "President," was left blank.

Agency or Tribe	Type of License	Date Applied	Status (as of 4/19/04)
Auberry Big Sandy Rancheria Gaming Commission	Vendor Gaming License (GGLLC)	6/12/02	Issued 7/3/02 – current (Mono Wind Casino)
Blue Lake Tribal Gaming Commission	Vendor license (GGLLC)	5/29/02	Issued 5/29/02 – current (Blue Lake Casino)
Cahuilla Tribal Gaming Agency	Temporary Gaming License (GGLLC)	5/10/02	Issued 5/28/02 – 3/1/03; not renewed (Cahuilla Creek Casino)
Colusa Tribal Gaming Agency	Vendor License	6/12/02	Initial application denied; new application filed 4/19/04 (Colusa Casino)
Jackson Rancheria Tribal Gaming Agency	Vendor License (GGLLC)	No info provided[9]	Issued to GGCA 2/28/03 – current (Jackson Indian Bingo & Casino)
Mooretown Rancheria Gaming Commission	Business License (GGCA)	4/1/03	Issued 7/8/03 – current (Feather Falls Casino)
Paskenta Band of Nomiaki Indians	Vendor Letter (GGLLC)	7/4/02	Issued 2/3/03 – current (Rolling Hills Casino)
San Pasqual Tribal Gaming Commission	Gaming License (GGCA)	9/11/02	Issued 12/17/02 – current (Valley View Casino)
Santa Rosa Rancheria Tachi Tribe Gaming Commission	Vendor License	10/9/02	Denied until further disclosure and clarification of information on application (The Palace Indian Gaming Center)
Santa Ynez Tribal Gaming Agency	Gaming License (GGCA)	4/1/03	Issued 10/10/03 through 10/10/05 (Chumash Casino)
Sycuan Gaming Commission	Vendor License	10/16/02	Issued 10/16/02 through 12/1/04

[9]The signed agreement between GGLLC and Jackson Rancheria was undated.

Tule River Tribe Gaming Commission	Vendor License	9/11/02	Denied until further disclosure and clarification of information on application (Eagle Mountain Casino)
Tyme-Maidu Tribe of the Berry Creek Rancheria	Vendor license (GGLLC)	5/22/02	Issued 7/23/02 – current (Gold Country Casino)
Viejas Tribal Government Gaming Commission	Business License	7/9/02	Issued 7/23/02 - current

Respondents' Suitability Applications – Timeline

29. On September 11, 2002, respondent Saucier signed license applications on his own behalf (principal application) and as the authorized representative of GGCA (business application), for a tribal gaming vendor license with the Tule River Tribe Gaming Commission (Tule River). The applications were received by Tule River on October 22, 2002, and the matter was assigned to tribal investigator Jim McClure for review on or about October 23, 2002.

30. On October 23, 2002, Special Agent Lucie Villones came to Tule River for a regularly scheduled visit. Investigator McClure and Agent Villones discussed the applications filed by respondents, and Investigator McClure requested assistance from the BGC in Tule River's investigation into respondent Saucier and GGCA.

31. Investigator McClure provided Agent Villones with copies of the license applications. Exhibit 1 attached to GGCA's Tule River vendor business application listed the following gaming licenses held by GGLLC: Blue Lake Casino (approved); Cahuilla Tribal Gaming Agency (temporary); Big Sandy Rancheria Gaming Commission (temporary); Viejas Tribal Government Gaming Commission (approved); and Berry Creek Tyme-Maidu Tribe (temporary).

32. On November 4, 2002, Agent Villones contacted Investigator McClure and stated that she had contacted the casinos where respondent Saucier had indicated GGCA or GGLLC was licensed, and she received information from the other tribes that differed from that stated on respondents' Tule River applications. At her request, Investigator McClure provided Agent Villones with additional information obtained as part of his investigation.

33. On November 18, 2002, Agent Villones faxed documents to Investigator McClure. In the "Comments" section on the fax cover sheet, Agent Villones wrote:

> Jim, I will be in touch. There are a lot of reasons that this guy should not be licensed to do business anywhere in California.

> Hopefully, I will be able to share the information with you at a later date. The first thing we need to do is "summons" him so that he completes our paperwork. I would like to see the information he submits to us.

34. After review of the applications filed by respondents with Tule River and information obtained from other tribal gaming commissions, the BGC determined that there were sufficient grounds to "summons" respondents and conduct a State suitability investigation.

35. A Notice of Summons was sent to respondents by BGC Special Agent Supervisor Edward Ching on November 26, 2002. In that letter, respondents were given 30 days to return a completed application for determination of suitability pursuant to Section 6.4.5 of the Compact.[10] Respondents' attorney, Frank Miller, responded to the Notice of Summons by letter dated December 19, 2002. In that letter, Mr. Miller requested an additional 30 days so that his client "can seek an exemption from the licensing requirements under the Compact at the Tribal Gaming Agency level." The evidence did not establish that respondents were successful in obtaining such an exemption.

36. As part of her ongoing assistance to the Tule River investigation, Agent Villones traveled to Las Vegas on December 9, 2002, and uncovered discrepancies involving respondent Saucier's home address.

37. By letter dated December 13, 2002, Tule River informed respondents that it had determined that respondents' application for a gaming resource supplier license should be denied, based in part on the fact that "Galaxy Gaming has not been forthcoming with any of the additional information that the Tule River Tribe Gaming Commission Background investigator has requested," and "Mr. Saucier's Financial Asset & Liabilities Disclosure does not match the computer generated credit report." By letter dated December 20, 2002, GGCA requested a hearing before the Tule River Commission to reconsider the denial, and submitted a written response to the reasons for denial. GGCA reiterated its request in a letter dated March 31, 2003.

38. On March 10, 2003, respondents filed applications for finding of suitability with the BGC (the Principal Application – respondent Saucier, and the Business Application

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[10] Section 6.4.5 of the Compact states, in part, that "[a]ny Gaming Resource Supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least twenty-five thousand dollars ($25,000) in Gaming Resources in any 12-month period, or who has received at least twenty-five thousand dollars ($25,000) in any consecutive 12-month period within the 24-month period immediately preceding application, shall be licensed by the Tribal Gaming Agency prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any such Gaming Resources to or in connection with the Tribe's Operation or Facility."

– GGCA). The applications were missing pertinent information, including financial schedules for both the Principal Application and the Business Application. Agent Villones and Investigative Auditor Theresa Ferko[11] conducted the investigation for the BGC.

39. On May 6, 2003, Agent Villones conducted a telephone interview with respondent Saucier, and gave him the opportunity to make additions and/or corrections to the applications.

40. In August of 2003, Agent Villones and Investigator Ferko traveled to Seattle and Spokane, Washington, to conduct interviews and review records.

41. On September 9, 2003, BGC sent a letter to respondent Saucier requesting that respondents submit complete principal and business applications. On that same date, BGC requested a site visit to review respondents' records located in Las Vegas, Nevada. On September 9, 2003, respondents' attorney, Frank Miller, requested that the site visit be postponed due to respondent Saucier's unavailability during the week of September 15, 2003. By letter dated September 15, 2003, BGC rescheduled the site visit to September 29, 2003.

42. Respondents submitted additional information related to the Business Application on or about September 12, 2003.

43. Agent Villones and Investigator Ferko traveled to Las Vegas during the week of September 28, 2003, to review documents, conduct interviews, and obtain records. On September 29, 2003, Agent Villones and Investigator Ferko went to 2213 Plaza del Robles in Las Vegas to inspect documents and conduct interviews. They met with Therese Watson, who agreed to provide requested documents and information. However, Ms. Watson did not thereafter provide the documents requested, which included cancelled checks, lease agreements and copies of loans, promissory notes, or documentation of liabilities, as well as the 2002 tax return for GGLLC. Respondent Saucier was not present on September 29, 2003.

44. On or about September 29, 2003, respondents provided "Updated and Supplemental Information" for the Principal Application and the Business Application.[12]

45. The BGC investigation continued in the fall of 2003. On November 26, 2003, Investigator Ferko spoke with attorney David Malone and scheduled an in-person interview with respondent Saucier for December 17, 2003. On December 16, 2003, Mr. Malone cancelled the interview at respondent Saucier's request and rescheduled it for December 23,

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[11] Ms. Ferko is sometimes referred to in the record as Theresa Buonassisi.

[12] Complainant considered the complete Principal Application and Business Application to include all information submitted by respondents up to and including September 29, 2003.

2003. On December 23, 2003, Investigator Ferko and Agent Villones met with respondent Saucier and his attorneys, Frank Miller and David Malone. The interview was not completed, as respondent Saucier had a plane reservation and was unable reschedule his flight due to the Christmas holiday.

46. In January of 2004, Agent Villones was informed that the Law Office of Maloney and Tabor was now representing respondents. BGC attempted to schedule additional days to interview respondent Saucier in early February 2004. At the request respondents' attorney, Robert Tabor, the interview was rescheduled to March 10-11, 2004.

47. Investigator Ferko and Agent Villones continued their investigation, and Agent Villones completed a partial draft Vendor report in March of 2004. On March 2, 2004, Mr. Tabor requested that the March 10, 2004 interview with respondent Saucier be rescheduled. Agent Villones attempted to reschedule the interview for March 16-17, 2004. However, on March 15, 2004, Mr. Tabor sent a letter to the BGC stating, in part, that Mr. Tabor had a telephone conversation with Deputy Director Samuel Dudkiewicz on March 2, 2004, and that "[his] firm had been retained by Mr. Saucier only a few weeks previously. Before we can adequately represent our client, we must understand the status of this gaming regulatory investigation and the concerns or questions the [BGC] may have."

48. In late March of 2004, Mr. Tabor and his partner, John Maloney, met with BGC Director Robert Lytle and Deputy Director Dudkiewicz. During that meeting, Mr. Tabor and Mr. Maloney requested the opportunity to substitute new principal and business applications. They were told that respondents could submit supplemental information, but it would not supersede the 2003 applications.

49. On April 14, 2004, the BGC scheduled the follow-up interview of respondent Saucier for April 28-29, 2004. On April 19, 2004, the BGC made its third request for the 2002 tax return of GGLLC.

50. On April 26, 2004, Mr. Tabor sent a letter to Deputy Director Dudkiewicz, along with the following documents: Supplemental Background Information, Gaming Resource Supplier/Financial Source Provider (Vendor) – Principal (2004 Supplemental Principal Application); Supplemental Background Information, Gaming Resource Supplier/Financial Source Provider (Vendor) – Business (2004 Supplemental Business Application); and Supplemental Disclosures for Applications – April 2004.

51. On April 28 and 29, 2004, Investigator Ferko and Agent Villones met with respondent Saucier and Mr. Tabor to continue the interview of respondent Saucier. On April 28, 2004, Vendor Licensing Section Supervisor Judy Rhodes attended the meeting, and Deputy Director Dudkiewicz was called into the meeting to clarify various issues. On April 29, 2004, Senior Audit Manager Dorothy Cooper attended the meeting, as did Special Agent Supervisor Shane Redmond. Investigator Ferko and Agent Villones also conducted a telephone interview with Therese Watson on April 29, 2004, with Mr. Tabor present.

52. Investigator Ferko and Agent Villones continued their investigations into the summer of 2004, and Agent Villones was involved in drafting and editing the investigation report. On June 29, 2004, Mr. Tabor informed BGC that the 2002 tax return was being sent to him and he would provide it to the BGC promptly.

53. On July 14 and 15, 2004, Agent Villones met with British Columbia and Oregon gaming officials. Agent Villones submitted a draft of her investigation report to licensing for review. On July 29, 2004, the BGC sent a letter to respondents via certified mail and fax requesting additional information related to questions left unanswered or in need of further clarification.

54. On August 9, 2004, Mr. Tabor provided a copy of GGCA's tax return to the BGC, despite the fact that the BGC had requested a copy of GGLLC's tax return. On August 25, 2004, BGC received a response to the July 29, 2004 letter from Mr. Tabor which, in the opinion of Agent Villones, did not provide complete answers to questions. On September 8, 2004, the BGC contacted Mr. Tabor requesting GGLLC's 2002 tax return. The full return was received on September 16, 2004.

55. On October 15, 2004, Mr. Tabor sent an email to Director Lytle enclosing a "draft" letter dated October 6, 2004, containing allegations of improper acts by BGC employees. On October 18, 2004, Mr. Tabor sent a letter to Investigator Ferko expressing concern with the progress of the BGC's investigation. In late October and November 2004, BGC staff and supervisors drafted responses to Mr. Tabor's October 6 and October 18 letters. In December 2004, Investigator Ferko and Agent Villones drafted a letter for Director Lytle's signature, responding to Mr. Tabor's October 18, 2004 letter. A final version of the letter responding to Mr. Tabor's complaints was sent by Director Lytle to Mr. Tabor on December 22, 2004. During this time, Agent Villones was editing her investigation report.

56. In February of 2005, Mr. Tabor emailed Director Lytle concerning a "draft" report released by the Oregon State Police concerning its investigation of respondent Saucier and GGOR.

57. On March 25, 2005, Norm Pierce submitted a memorandum to Director Lytle recommending the denial of respondents' applications for Finding of Suitability. Director Lytle sent a letter to Mr. Tabor dated April 6, 2005, notifying him of the recommendation for denial of respondents' applications, and including a Summary Report outlining the bases for the denial recommendation. Director Lytle sent a letter to respondent Saucier, dated April 26, 2005, informing him of the denial recommendation and notifying him of his right to request a pre-denial meeting with the Director. On June 24, 2005, Mr. Tabor sent an email to Director Lytle requesting that BGC staff clarify 13 items in the Summary Report. On July 7, 2005, Director Lytle sent an email to Mr. Tabor in which he reviewed the request for clarification of issues and denied the request.

58. In late July of 2005, the BGC received a copy of a letter to respondent Saucier from Swarts & Swarts CPA, regarding performed procedures to examine the allegations in the Summary Report.

59. On August 8, 2005, during the pre-denial meeting with Director Lytle, Mr. Tabor and Mr. Maloney submitted a binder of information responding to the Summary Report and the grounds for denial of the applications (Binder). On August 25, 2005, Director Lytle sent an email to Mr. Tabor in which he indicated that review of additional documents in the Binder provided on August 8, 2005, would require reopening the investigation. Director Lytle stated that additional funds would be needed to conduct additional investigation.

60. On September 15, 2005, Mr. Tabor wrote a letter to Director Lytle in which he objected to Investigator Ferko and Agent Villones continuing to investigate this matter, and proposed that the BGC select an "unbiased independent investigator," and that the scope of the additional investigation "be clearly limited to compare the allegations presented in the Binder to the Summary Report, and if necessary, further investigate any unresolved items."

61. In the August or September of 2005, Agent Villones prepared supplemental information in response to new information contained in the August 8, 2005 Binder.

62. On October 3, 2005, Senior Management Auditor Dorothy Cooper sent a letter to Mr. Tabor, requesting proposed dates to review files and interview CPA Curtis Swarts. On October 4, 2005, Mr. Tabor sent a letter in response, stating that it would be inappropriate for the BGC's auditors to proceed at this time and indicating that he was awaiting a response from Director Lytle to his September 15, 2005 letter. By letter dated October 5, 2005, Ms. Cooper notified Mr. Tabor that the BGC would treat his letter as a refusal by respondents to cooperate with the BGC's background investigation. In his October 7, 2005 response to Ms. Cooper, Mr. Tabor stated in part:

> I made quite clear to you in my letter of October 4, 2005 and its attachments that we are in the middle of on-going discussions with Director Bob Lytle regarding whether the investigation of Galaxy Gaming will be reopened and, if so, the scope of that investigation. It is clearly premature for you to seek to confirm dates with which to meet with the Galaxy Gaming retained accountants that reviewed accounting information provided to the [BGC] before we have concluded our discussions with Director Lytle on the scope of the reopened investigation.

63. Director Lytle responded to Mr. Tabor's September 15, 2005 letter by letter dated October 6, 2005. Director Lytle referenced three letters written by Mr. Tabor between October 18, 2004, and September 15, 2005, some of which had been sent to other gaming jurisdictions, in which Mr. Tabor challenged the conduct of the BGC's investigation and

expressed opinions and arguments about how the investigation should proceed. The letter further stated:

> While it is appropriate to represent your clients' interests, these letters have gone beyond normal business correspondence and have personally attacked our staff, namely, the special agent and investigative auditor assigned to the case. These [BGC] employees are performing the duties to which they are assigned and they do not have the option of excluding your clients from the normal processes governing suitability applicants. The business of gambling is closely regulated in California and the laws governing licensing or determination of suitability of those who wish to profit from such businesses require the scrutiny to which your clients are being subjected. Your personal attack on [BGC] employees is an attempt to harass and intimidate the [BGC] and, as such, it is inappropriate. This behavior has prolonged the background process by requiring additional attention to the matters that you raise and, ultimately, is a disservice to your clients.
>
> We will proceed with our background investigation into your clients' applications for suitability according to standard [BGC] practices. We decline to make any exceptions to the law for your clients, and we hope you understand that continued harassment of [BGC] employees will not result in any special treatment....

64. In Mr. Tabor's November 2, 2005 letter responding to Director Lytle's letter, Mr. Tabor took issue with Director Lytle's characterization of events and denied seeking "limitations to be imposed on the investigation," or "exceptions to the law" or other special treatment.

65. By letter dated October 28, 2005, Director Lytle informed respondent Saucier that the BGC intended to recommend denial of the applications for Finding of Suitability, and notified him of his right to schedule a pre-denial meeting.

66. On November 2, 2005, Mr. Tabor wrote a letter to Chief Deputy Attorney General Steven Cooney, filing a formal complaint with the Professional Standard Unit of the Department of Justice, alleging misconduct by Investigator Ferko and Agent Villones.

67. On November 21, 2005, Mr. Tabor wrote a letter to Director Lytle, in which he expressed surprise that the BGC intended to recommend denial of respondents' applications. He questioned whether the BGC had conducted any further investigation in response to the August 8, 2005 Binder submitted by respondents, and expressed respondents' continued willingness to reopen the investigation and provide additional information.

68. In a December 7, 2005 letter to Cara Podesto, Acting Deputy Director of the Commission, BGC informed the Commission of its recommendation "that the California Gambling Control Commission deny a Finding of Suitability for Galaxy Gaming of California, LLC, a New Mexico Limited Liability Company, as a Gaming Resource Supplier; its managing company, Galaxy Gaming, LLC; and its principal, Robert B. Saucier to conduct business in California in accordance with the California Tribal-State Gaming Compact."

69. By letter dated December 7, 2005, Director Lytle informed respondent Saucier that the BGC had submitted to the Commission its investigation report recommending denial of respondents' applications for Finding of Suitability. The letter noted that respondents had not responded by the prescribed deadline to request a pre-denial meeting with Director Lytle, which was deemed waived. The letter further stated:

> Additionally, the [BGC] is in receipt of a letter of complaint dated November 2, 2005, from your designated agent, Robert Tabor, to Chief Deputy Attorney General Steve Cooney, which alleges misconduct by members of the [BGC] involved in the suitability investigation. Please be aware that this complaint does not affect the process or time frame for Commission action in the suitability determination. Any further information you want to submit regarding this matter should be directed to the California Gambling Control Commission. A summary of the Director's final report and recommendation will be delivered to you not less than 10 business days prior to the meeting of the Commission at which the application will be considered, as noted in Business and Professions Code section 19868, subd. (b)(2).

70. By letter dated July 24, 2006, the Commission notified respondents, through their attorney, Robert Tabor, that the Commission would consider the BGC's recommendation to deny respondents' applications at the Commission's August 3, 2006 meeting. Respondents were informed of their right to request an evidentiary hearing on the denial. Mr. Tabor responded by letter dated July 31, 2006, and requested an administrative hearing before an administrative law judge. The letter further stated, in part:

> The Commission may be aware that there are numerous pending issues surrounding my clients' application for a finding suitability, not all of which are addressed in the [BGC's] recommendation. Once such issue is the current investigation of certain [BGC] personnel by the Department of Justice, Professional Standards Group as the conduct of the [BGC] personnel relates to the Galaxy Gaming of California investigation. Another issue is the tort claim filed by Galaxy

> Gaming of California and others against [BGC] staff based on the tortuous acts of [BGC] personnel during the nearly three year investigation of Galaxy Gaming of California. That claim is currently under investigation by the California Victims Compensation and Government Claims Board.

71. The Commission rescheduled its consideration of the BGC's recommendation to deny respondents' applications until its December 7, 2006 meeting. As reflected in the December 12, 2006 letter from Commission Chairman Dean Shelton to Mr. Tabor, Mr. Tabor appeared at the December 7 meeting and requested that the Commission appoint a special investigator to review the BGC's investigation and, if appropriate, to independently investigate respondents' applications for a finding of suitability as a gaming resource supplier. The Commission denied the request for appointment of an independent investigator, and referred the matter for hearing. As stated by Chairman Shelton:

> After careful consideration, I have decided that it would be in appropriate [*sic*] for the Commission to grant your request for a special/independent investigation. To properly evaluate the need for such a request would require, among other things, the facts of the situation and the substance of the investigation conducted by the [BGC]. Such an undertaking could compromise the ability of the Commission to act on a Proposed Decision submitted to the Commission at the conclusion of an administrative hearing pursuant to the Administrative Procedure Act, as you originally requested.

72. Thereafter, on an exact date not established by the evidence, the matter was assigned to a deputy attorney general in the Indian and Gaming Law Section in the Public Rights Division of the Attorney General's Office. On July 1, 2007, the matter was reassigned to Deputy Attorney General William Williams, Jr. for prosecution, after the prior attorney left the section.

73. In September of 2007, Mr. Williams was contacted by an attorney with the Oregon Attorney General's office, seeking information related to the complaint filed against the BGC's investigators by respondents, in relation to ongoing litigation between the Oregon State Police (OSP) and former OSP Detective Scott Eberz. This contact led to further investigation by the BGC into possible improper access by respondent Saucier to the BGC's confidential investigatory file. However, Mr. Williams was unable to obtain documents from the Oregon Attorney General's office until late October of 2008, when thousands of pages of discovery materials were produced.

74. Robert Lytle ceased being the Director of the BGC in 2007. Jacob Appelsmith became the Chief of the BGC in December of 2008. In 2009, Chief Appelsmith engaged in negotiations with respondent Saucier and Mr. Tabor to consider alternatives to denial of the applications. In addition, according to Chief Appelsmith, the investigation was ongoing, and

additional evidence was being gathered. One of the matters under discussion was the status of the Sherron Judgment, which respondent Saucier was seeking to abrogate. Eventually, settlement efforts were unsuccessful, and Chief Appelsmith signed the Statement of Issues on September 24, 2009. The Statement of Issues was served on respondents on October 12, 2009.

GGLLC's Activities/License Agreements in California are Imputed to GGCA

75. During the May 6, 2003 telephone call between Agent Villones and respondent Saucier, respondent Saucier explained that GGLLC had license agreements with some California Indian Tribes, but that they were "winding down all of the Galaxy Gaming operations with the tribes," and intended to do business in California as GGCA. Agent Villones explained the importance of full disclosure of tribal licenses held not just by GGCA but by GGLLC as well, and respondent Saucier agreed to provide updated information. As was reflected in subsequent financial disclosures, licensing revenues generated by licenses held by GGLLC with California tribes were deposited into GGCA's separate business account (See Findings 80 and 81).

76. Agent Villones testified that the "normal procedure" would have been for the BGC to "summons" GGLLC for a finding of suitability because GGLLC was doing business in California and was licensed by several tribes. However, the BGC did not ask to have GGLLC called forward because she and the other investigators did not initially understand the complicated business structure involving GGLLC and the GG affiliates until they were "far along in the process" of investigating GGCA, and in light of respondent Saucier's statements that all of the business of GGLLC was transitioning to GGCA. The problem was compounded because respondent Saucier interpreted and responded to questions narrowly, especially in his initial written responses (as reflected in the 2003 applications). Thus the business structure was not obvious, and answers were not obtained early on. Therefore, according to Agent Villones, the BGC chose not to start a separate investigation of GGLLC, to save respondent Saucier from the cost of such an investigation, and instead included GGLLC in their investigation of GGCA, because respondent Saucier was the principal of both.

77. This understanding was discussed in the April 29, 2004 interview attended by respondent Saucier, Mr. Tabor, and BGC staff:

IA FERKO: I want to make, remind you of one other issue. We are doing the background of Galaxy Gaming of California but through our course of the investigation, we found out that Galaxy Gaming LLC is doing business in California so instead of calling them forward also, we agreed upon doing it all as one so it's Galaxy Gaming LLC and Galaxy Gaming of California. It's the two, because they're intertwined. Galaxy Gaming LLC has

contracts and I know you're trying to convert them all over but the records that we're looking at say its Galaxy Gaming LLC.

SA VILLONES: On your own binder, it says that Galaxy Gaming LLC is the managing company for Galaxy Gaming of California so we're required to look at the records

IA FERKO: So instead of making you...

MR. SAUCER: There's never been a challenge...

IA FERKO: Okay.

MR. SAUCIER: That you want to look at the records of Galaxy Gaming LLC.

IA FERKO: Okay.

MR. SAUCIER: Okay? And so you know because we had this discussion a long time ago, the intent was not to get two findings of suitability.

IA FERKO: Right.

MR. SAUCIER: The intent was as Galaxy Gaming of California, Galaxy Gaming is its manager. So there's no question there.

IA FERKO: Okay, I just wanted to make sure, thank you.

78. During the April 28, 2004 interview, both respondent Saucier and his attorney, Mr. Tabor, acknowledged that several California Indian Tribes were still doing business under license agreements with GGLLC. As Mr. Tabor stated:

> ...and also when they got Galaxy Gaming of California moving forward, they made an effort to replace any of the contracts that were under Galaxy Gaming LLC, to Galaxy Gaming of California. It may well be that the official license with some of these Tribes is still with...Galaxy Gaming LLC. But that the payments are now being, because they've changed and instituted or replaced Galaxy Gaming LLC with Galaxy Gaming of

> California, the payments themselves are actually being made to Galaxy Gaming of California. And presumably, a lot of these Tribes do work relatively informally, and they may not have either officially transferred the license over to Galaxy Gaming of California, or they may have made an internal decision simply to wait until the license is renewed. And then at that point, officially transfer the license over to Galaxy Gaming of California. But at this point, it is Mr. Saucier's belief that all the payments from the California Tribes are being made to Galaxy Gaming of California. And that's something we can obviously research further.

In 2002, it was Reasonably Foreseeable that GGLLC/GGCA Would Provide at Least $25,000 in Gaming Resources in a 12-Month Period to at Least Two California Tribes

79. Investigative Auditor Theresa Ferko was assigned to audit financial records provided by GGCA in support of its Business Application. Investigator Ferko examined GGCA's bank records and general ledger for 2002; she also examined GGLLC's 2002 general ledger, and GGCORP's 2000 general ledger.

80. GGCA's general ledger and bank records reflected the receipt of recurring licensing fees that were deposited in GGCA's Bank of America account.

81. Records reviewed demonstrated that GGCA collected license fees from Blue Lake Casino of approximately $2,000 per month for July through September 2002, and $2,200 for October through December 2002 (average $2,100 per month). GGCA collected license fees from Rolling Hills Casino of approximately $2,000 per month for July through September 2002, and $2,250 for October through December 2002 (average $2,125 per month).[13] Based on this information, it was reasonably foreseeable that GGCA would provide more than $25,000 per year in gaming resources to Blue Lake Casino ($25,200) and Rolling Hills Casino ($25,500), and is thus "deemed likely to provide at least twenty-five thousand dollars ($25,000) in Gaming Resources in any 12-month period" for purposes of the licensure requirement of Section 6.4.5 of the Compact. Furthermore, in documents submitted on September 12, 2003 to augment the Business Application, respondents disclosed monthly accounts receivable for Rolling Hills Casino of $2,495 per month, or $29,940 per year. This constituted an admission by respondents that GGCA was providing at least $25,000 in services to Rolling Hills Casino in a 12-month period.

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[13] The license agreements for Blue Lake Casino and Rolling Hills Casino were with GGLLC (Findings 20, 22, and 28). However, for the reasons set forth in Findings 75 through 78, these contracts and the revenues generated thereby are attributable to GGCA.

Respondents' 2004 Supplemental Applications did not Supplant the 2003 Applications

82. Respondents filed their initial applications for Finding of Suitability (Principal Application and Business Application) on March 10, 2003. Respondents concede that these applications were incomplete and contained some erroneous information. Agent Villones conducted a telephone interview with respondent Saucier on May 6, 2003, during which time respondent Saucier orally disclosed that he was "...arrested for DUI about two years ago." Respondent Saucier and Agent Villones also discussed the fact that GGLLC held some licensing agreements with California Indian Tribes and had originally been "called forward" by the BGC, but that respondents sought a Finding of Suitability for GGCA, because GGLLC's operations were "winding down," and respondents intended for GGCA to conduct operations in California.

83. On September 12, 2003, respondents submitted additional information (primarily financial information related to the Business Application) to the BGC. On September 29, 2003, respondents provided "Updated and Supplemental Information" for the Principal and Business Applications.

84. Complainant accepted respondents' submissions through September 29, 2003, as the Principal Application and the Business Application.

85. Respondent Saucier was interviewed by BGC investigators on December 23, 2003, accompanied by respondents' then-attorneys, Frank Miller and David Malone. After that interview, respondents substituted the law firm of Maloney and Tabor as their attorneys. In his testimony at hearing, Mr. Maloney described the 2003 applications as a "train wreck," and stated that "[w]e, in 2004 put a tremendous amount of time and effort into fixing that application." According to both Mr. Maloney and Mr. Tabor, they had numerous discussions with Director Lytle and Deputy Director Sam Dudkiewicz about adding more information to the application, and whether or not respondents would be allowed to submit a "new" application. Mr. Maloney acknowledged that there was "resistance" to the concept of replacing the initial applications, and the conversations with Director Lytle were "contentious."

86. On April 19, 2004, respondents submitted the following documents to the BGC: Supplemental Principal Application, the Supplemental Business Application, and Supplemental Disclosures (Finding 50). According to Mr. Maloney and Mr. Tabor, these submissions represented respondents' efforts to be forthcoming with information by being "over-inclusive" in their responses to questions.

87. Both Mr. Tabor and Mr. Maloney claim that Director Lytle "agreed to new applications," because "he wanted to get to the substance, not form over substance." Director Lytle testified at hearing that respondents' attorneys "requested to supply a supplemental application which [Director Lytle] said was all right." Director Lytle further testified that it was his intention "to work off the supplemental applications."

88. Respondents contend that Director Lytle authorized them to file "new" applications in 2004 which were to be substituted for the 2003 applications. However, this contention is not supported by the weight of the contemporaneous evidence.

89. The supplemental applications were discussed in the April 29, 2004 interview attended by respondent Saucier, Mr. Tabor, and BGC staff, including Deputy Director Dudkiewicz:

DEP. DIR. DUDKIEWICZ:	Well, let me speak first about the new application. We've already talked about this and, you know, the application I think is for informational purposes only related in a new application. We're not accepting the new application so, and I think that's what we've agreed to when we talked several weeks ago is that...
MR. TABOR:	I think you're right...
DEP. DIR. DUDKIEWICZ	We would accept the application only to be used from an informational and investigative standpoint but not necessarily to represent or stand for the application.
MR. TABOR:	Yeah, although we think this is the most complete and accurate information that the applicant's been able to provide and, you know, in hindsight, you know, if he'd have taken a little more time and been more proactive, this probably the application that would have been submitted, but having said that, this is again the most, probably the most accurate application that we think is most responsive to the two applications.

90. Questions about the supplemental applications were also raised during the BGC's interview of respondent Saucier on April 30, 2004:

MR. TABOR:	Having said that, I think what's important to understand is that there's been a significant effort especially since the involvement of our firm, to ensure that we've got full and accurate and complete disclosure of every category that the [BGC's] wanting to look at in response to the

application, and response to your questions, so...

IA FERKO: Well. Our directive from Sam and Bob Lytle, and I believe they expressed this also to you, that we were not going to accept the revised application. If you wanted to provide it, you're more than welcome to provide it, but I believe and correct me if I'm wrong, that was their decision.

MR. TABOR: No, that's right. They did indicate at the meeting that we had with them about a month ago that they would not necessarily accept the new applications as the "application" for this purpose. But, you know, we think that it's incumbent upon the [BGC] to ensure that the Commission is aware that a full and complete application has been provided. We've provided all the information responsive to the questions.

91. Thus, it is clear that the BGC did not intend to allow respondents to substitute the 2004 Applications for the earlier applications. Director Lytle's hearing testimony to the contrary is undercut by his own conduct. By letter dated April 6, 2005, Director Lytle informed Mr. Tabor that the BGC intended to "recommend denial of the application for a Finding of Suitability for Robert Saucier doing business as Galaxy Gaming of California, LLC." Attached to the letter was a Summary Report listing the bases for the proposed denial. The Summary Report stated, in part, that respondent Saucier violated Business and Professions Code section 19859, subdivision (b) by his "Failure to Disclose Information and Providing False and Misleading Statements," including the following:

- Outstanding Judgment – Mr. Saucier failed to disclose on his application the $1.5 million judgment (principal and interest) owed to Sherron Associates.

- City of Spokane, Washington Gambling Taxes – Mr. Saucier failed to disclose on his application gambling taxes owed to City of Spokane by the Mars Hotel & Casino.

- Misdemeanor Conviction – Mr. Saucier provided misleading information to California Tribal Gaming agencies stating his "driving under the influence" was dismissed instead of reporting it as a misdemeanor. Also, Mr. Saucer stated in Tribal gaming applications that he was never convicted of any misdemeanor.

- Residence Address – Mr. Saucier failed to disclose a valid residential address in his application with the Division and Tribal Gaming agencies. Mr. Saucier filed his personal federal income tax returns in Washington State, listed a condominium in Mexico as a residence, and obtained a home-based business license in Las Vegas, Nevada.

  [¶]...[¶

- Business Ownership and Structure – Mr. Saucier and Ms. Watson provided false or misleading information regarding the member (owner) structure of Outsource Management, LLC. The British Columbia "Principal" application shows Mr. Saucier owning 50 percent interest in Outsource Management, LLC.

- Mr. Saucier failed to disclose multiple businesses (Galaxy Gaming of Nevada, LLC, Galaxy Gaming of Oregon, LLC, Bonus Blackjack, LLC, Intergalactic, etc.).

- Gaming Licenses – Mr. Saucier failed to disclose licenses held or pending; and misrepresented licenses held or pending. The Nevada Gaming Control Board does not conduct background investigations on game inventors (owners), and only approves or disapproves the game for operation. In the State of Washington, Mr. Saucier was given a conditional license because of the operation of the Mars Hotel & Casino.

- Child Support – Mr. Saucier failed to disclose court ordered child support payment.

  [¶]...[¶]

- Litigation – Mr. Saucier failed to disclose numerous litigation [*sic*] on his application with both the Division and with Tribal Gaming Commissions. Mr. Saucier failed to disclose that he sued The Mars Hotel & Casino in 1998 for $1,635,220. In essence, he sued himself and received a default judgment.

- Financial – Mr. Saucier failed to disclose personal credit cards and liabilities; two personal accounts sent to collections; and repossession and/or foreclosure of personal residence. Mr. Saucier failed to disclose the material influence by affiliated businesses under the control of Mr. Saucier, Ms. Watson, and Outsource Management staff, which may have supported the

need for additional principals and businesses to apply for a finding of suitability. Mr. Saucier failed to provide Galaxy California's recurring licensing revenues from three California Tribal Casinos.

- Mr. Saucier intentionally provided evasive answer [*sic*] regarding his assets. Mr. Saucier listed a $64,000 accounts receivable from Galaxy Gaming businesses, yet he claims to have no assets or income.

[¶]...[¶]

- Education – Mr. Saucier provided false information to the Division stating that he graduated from the University of Nevada, Reno (UNR).

92. With the exception of information relating to Outsource Management, and the misleading information pertaining to respondent Saucier's education, all of the matters were addressed in some fashion in the 2004 Supplemental Applications and supporting documents submitted to the BGC in late April of 2004. The fact that Director Lytle made his recommendation to deny Finding of Suitability to respondents based on nondisclosures or inaccuracies that were "corrected" by the 2004 Supplemental Applications is a clear indication that he did not allow the 2004 Applications to supersede the 2003 Applications, contrary to his testimony at hearing.

93. According to Director Lytle, he reviewed the binder of information Mr. Tabor submitted in response to the Summary Report that accompanied Director Lytle's April 6, 2005 letter notifying respondents of his recommendation to deny the Applications. Director Lytle testified that after review, he was "more comfortable" with some of the explanations given by respondent Saucier for why certain things were disclosed in one place and not another, and why other matters were "left off." However, Director Lytle did not modify the Summary Report before transmitting it to the Commission in December of 2005 with his recommendation that the Commission deny findings of suitability to respondents.

94. Respondents contend that Business and Professions Code section 19868 requires the BGC to accept the 2004 Supplemental Applications as "new" applications. This contention was not persuasive. Business and Professions Code section 19868 sets forth the procedure for the BGC to investigate applications for licensure or approval (i.e. findings of suitability), and describes the procedure to be followed if denial of the application is recommended by the BGC Chief/Director. Business and Professions Code section 19868, subdivision (c), states: "(c) A recommendation of denial of an application shall be without prejudice to a new and different application filed in accordance with applicable regulations." At the time respondents submitted the Supplemental Applications, there had not been a

recommendation of denial by Director Lytle. Therefore, Business and Professions Code section 19868, subdivision (c), is inapplicable.[14]

First Cause for Denial of Application (as amended) – Failure to reveal facts material to qualification, and/or supplying of untrue or misleading information as to a material fact pertaining to the qualification criteria

95. In March of 2003, respondent Saucier completed Principal and Business Applications for Finding of Suitability on his own behalf and on behalf of GGCA. The Principal Application contained the following instructions on the first page:

> Do not misstate or omit any material fact(s) as each statement made herein is subject to verification. Any corrections, changes or other alterations must be initialed and dated by the applicant. Each page, including additional pages, must be initialed in the lower right-hand corner. By placing your initials on each page, you are attesting to the accuracy and completeness of the information contained on that page. You are advised that this Application for a Finding of Suitability is an official document and misrepresentation or failure to reveal information requested may be deemed to be sufficient cause for denial or revocation.

96. The Business Application contained the following instructions on the first page:

> Type or print. Indicate "N/A" for items that do not apply. If more space is needed, attach separate sheets. False or incomplete answers could result in the denial or subsequent revocation of a Finding of Suitability.

97. Respondent Saucier signed a declaration under penalty of perjury in connection with the Business Application, dated March 10, 2003, which stated, in part:

> I, Robert Saucier, declare that I have read the foregoing Application for Finding of Suitability and know the contents thereof, that the statements contained herein are true and correct and contain a full and true account of the information requested; that I executed this declaration with the knowledge that misrepresentation or failure to reveal information requested may

[14] After Director Lytle issued his recommendation, the question remained whether respondents could have filed "a new and different application." However, respondents exercised their appeal rights under Business and Professions Code section 19825, and California Code of Regulations, title 4, section 12050, section (b)(1), with respect to the denial of the existing applications.

> be deemed sufficient cause for denial of a nap occasion or revocation of a state gambling license, finding or permit....

98. On September 12, 2003, respondent Saucier submitted additional information to supplement the business application of GGCA. On that date, he signed a declaration under penalty of perjury attesting to the accuracy of the application, with language identical to that quoted in Finding 97 above.

99. On September 29, 2003, respondents submitted "Updated and Supplemental Information" for both the Principal and Business Applications. On September 22, 2003, respondent Saucier signed a declaration under penalty of perjury attesting to the accuracy of the applications, with language identical to that quoted in Finding 97 above.

100. In April of 2004, respondent Saucier completed Supplemental Principal and Business Applications which contained the following instructions on the first page:

> Type or print legibly in ink an answer to every question. If the question does not apply to you, indicate with "N/A (Not Applicable.)" If the space available is insufficient, use a separate sheet and precede each answer with the applicable section and question number. Do not misstate or omit any material fact(s) as each statement made herein is subject to verification. Any corrections, changes or other alterations must be initialed and dated by the applicant.

101. The 2004 applications were signed by respondent Saucier under penalty of perjury on April 19, 2004.[15] The signature declaration pages attested to the accuracy of the applications, with language identical to that quoted in Finding 97 above.

Failure to Provide a Valid Residential Address for Respondent Saucier

102. Section 1 of the Principal Application requires the applicant to disclose "Personal History Information." Question 1.(A) requires the principal to disclose his/her "Present Residence Address – Street or Route'; "Mailing Address (if different from above); and "Present Employer Business Address." On the March 10, 2003 Principal Application, respondent Saucier listed his present residence address, mailing address, and present business address as: 3170 W. Sahara Avenue, #D-21, Las Vegas, Clark (County) Nevada 89102. In fact, this address was the office of GGLLC's accountant, Kenneth Seltzer, from whom GGLLC purportedly sublet space. This address was used as a "mail drop" for GGLLC, the GG affiliates, and other associated businesses. It was never a residence for respondent Saucier.

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[15] The business application was signed by respondent Saucier "on behalf of Galaxy Gaming of California, LLC."

103. Question 1.(G) "RESIDENCES," on the Principal Application, required the applicant to "Please list all your residences (most recent first) for at least the past 15 years." Respondent Saucier reported the following:

> From March 2002 to present – 3170 W. Sahara Avenue, Las Vegas, NV;
>
> From May 2002 to present – Reno #45, SM 20, Cancun, Mexico;
>
> From November 1999 to February 2002 – 1621 E. Flamingo #15-A, Las Vegas, NV; and
>
> From November 1998 to October 1999, "traveled extensively. Stayed w/friends/hotels. Seattle area primarily."

104. When respondent Saucier was interviewed by Agent Villones in May 2003, he did not change his answer to these questions or provide a different residential address.

105. During the course of the BGC investigation in the summer of 2003, Agent Villones and Investigator Ferko notified respondents that they wished to schedule a visit to Las Vegas to review and copy documents at GGLLC's office. Shortly before the visit was to take place, respondent Saucier disclosed that the records were kept at a residential townhouse in a gated community, located at 2213 Plaza del Robles, Las Vegas, Nevada 89102.

106. In the Updated and Supplemental Information for the Principal Application, submitted on September 29, 2003, respondent Saucier changed his current mailing address and present employer's business address to P.O. Box 26535, Las Vegas, Nevada 89126. Under "Present Residence Address" in response to Question 1. (A), respondent Saucier stated: "303-1120 Hamilton Street, Vancouver, BC V6B 2S2. This address is Mr. Saucier's Attorney. He is looking for a place to rent." In fact, respondent Saucier never moved to Vancouver.

107. During the December 23, 2003 interview with BGC investigators, respondent Saucier acknowledged that he listed residential addresses on his application that were false (in that he did not reside there) and offered the following explanation for his conduct:

> I know that seems unusual but I...I also hope that we can also stress the unusual set of circumstances that, that I am living under. I literally am in fear that a process server is going to walk up to me and serve me with papers and then I have to go through a deposition again to try to satisfy this judgment.
>
> [¶]...[¶]

I think that...I think that the key is that...you know, the judgment that we had was as a result of me co-guaranteeing a loan as well as my wife and one other business associate and I think the judgment at the time was like $800(000) or $900,000. I can't remember exactly but it compounds at 24% interest so it's well over $1 million now even though a certain amount has been paid on it. And, the problem was [*sic*] is that, you know, these...the creditor is going to do everything they can to get whatever money they can so in the case of my ex-wife, they tried to go after the stock that she owned in her family's company and her father had actually...the stock was actually pledged to a bank for a loan. Her father paid off the loan and received the stock back and then what happened was the creditor, Sherron Associates attempted to go after her, after her father who paid off the loan and said that he did so as part of a fraudulent conveyance. They were not successful in doing that. But nonetheless, you know, my ex-wife and I, I mean, we were totally financially wiped out. We lost everything. We lost our home. We lost everything. And the...and the marriage did not survive that but, you know, we have a 9 year old daughter that we treasure and so my options at the time was...a number of people advised me to do this, was [*sic*] this file personal bankruptcy. I did not want to file personal bankruptcy and, in fact, I, you know, may... I think it's just because of the principles, maybe the way I was raised but nonetheless, this judgment follows me wherever I go. And so, the only opportunity that I have to rectify it is that if I can get this company to be successful enough to wear there's enough income to wear an attorney can negotiate on my behalf to reach a settlement with the creditors to pay off the judgment, certainly not 1 million + that they're asking but we believe that there's a number significantly less than that that they would accept, then we could pay off the creditor and I can move on and live a normal life. The other thing that, of course, is important to me is my daughter's future. I needed to provide for her and that's why I... I know you are familiar with the organization, you will see that she has anywhere from 50(%) to as high as 95% interest in these with the idea that it's like a family trust I'm building it for her future. So, I mean...I...I do live an unusual lifestyle but I'm totally paranoid that at any time, you know, somebody could, you know, take something away from me and so that's why when you look at my financial statements and I show I have no assets, I have no assets. My only assets are the investments that I made into Galaxy, the Galaxy companies.

108. On the April 19, 2004 Supplemental Principal Application, respondent Saucier again listed his present residence address as 303-1120 Hamilton Street, Vancouver, BC, in response to Question 1. (A).

109. Question 1. (C) (2) of the Supplemental Principal Application, requested information about co-habitants and/or roommates of the applicant. In response, respondent Saucier stated: "[t]he Principal presently does not have any co-habitants or roommates. However, from time to time during the past six years, he has stayed at friends and family members' residences periodically. Some of those people include Norman Abens, Phil Brown, Steve Dowen, Rob Lupowitz, Dave Philby, Joe Purcell, Gloria Saucier, Gary Saul, Fred Steiner, Kim Stoker, Jim Watson, Therese Watson, and Steve Wilson."

110. In response to Question 1. (G) of the Supplemental Principal Application, RESIDENCES, respondent Saucier stated, in part:

> To the best of our knowledge and recollection, the following locations have been used by the Principal to conduct his personal affairs and collect mail during the past 10 years:
>
> | | |
> |---|---|
> | Current: | 303-1120 Hamilton Street, Vancouver BC, V6B 2S2, Canada |
> | Current: | P.O. Box 26535, Las Vegas, NV 89126 |
> | Current: | 3645 N. Pearl Street, Tacoma, WA 98407 |
> | Previous: | 3170 W. Sahara Avenue, Suite D-21 Las Vegas, NV 89102 |
> | Previous: | Reno #45 SM 20, Cancun, Quintana Roo 77500 Mexico |
> | Previous: | 1621 E. Flamingo #15-A, Las Vegas, NV 89119 |
> | Previous: | 4550 W. Oakey, Las Vegas, NV 89102 |
> | Previous: | 1555 E. Flamingo, Las Vegas NV 89119 |
> | Previous: | 421 W. Riverside, Spokane, WA 99201 |
> | Previous: | 2805 W. 17th St. Spokane, WA 99202 |
>
> Since November 1999, Mr. Saucier has traveled extensively and has not had a permanent residence. Besides a myriad of hotels, motels, and extended-stay facilities, Mr. Saucier has stayed with friends and family in one or more of the following locations:
>
> | | |
> |---|---|
> | Canada: | Vancouver and environs. |
> | Mexico: | Cancun, Tijuana, Puerto Vallarta, Tulum, Mazatlan, Acapulco and Cabo San Lucas. |
> | Caribbean: | San Juan and Ponce, Puerto Rico; Aurba, U.S. Virgin Islands and St. Kitts. |
> | United | |

States: Nevada, New Mexico, Colorado, Oregon, Washington, California, Arizona, Massachusetts, Maine, New York, Mississippi, Iowa, Minnesota, Idaho, Utah, Texas, Oklahoma, Tennessee, New Hampshire

111. Respondent Saucier did not disclose the Plaza del Robles townhouse as a place where he sometimes slept, despite the fact that he admitted in the December 23, 2003 interview with BGC investigators that, when his daughter came to visit him, "Sometimes we stay at the property that you were at at Plaza del Robles. Sometimes I have her stay with me in a hotel. Sometimes I stay with friends." He also stated that he anticipated staying at Plaza del Robles on the nights of December 23 and 24, 2003, after concluding the interview in Sacramento. Respondent Saucier acknowledged that he had "a desk there [at Plaza del Robles] and a phone there and a bed there...."

112. Robin King was the office manager for GGLLC from November 2001 to May of 2003.[16] Ms. King worked out of the Plaza del Robles location. She testified that, when she worked for GGLLC, respondent Saucier "was at the [Plaza del Robles] office more than he was not at the office." She confirmed that respondent Saucier, Therese Watson, and Ms. Watson's daughter were living at the Plaza del Robles townhouse when she started work in November 2001, and continued to live there until around April 2003. She "did not know where [respondent Saucier] moved to after that."

113. Joan Cross performed accounting and other work for GGLLC and the GG affiliates, including GGCA, from the late summer of 2002 until mid-summer of 2005.[17] As an independent contractor, Ms. Cross had keys to the Plaza del Robles townhouse, and she could "come and go" without direction from respondent Saucier or Therese Watson. Ms. Cross testified that Plaza del Robles was respondent Saucier's home, as well as the location where GGLLC operated when she first started work in 2002, until the fall of 2004; she referred to it as the "headquarters" for GGLLC. She also stated that respondent Saucier was "working out of his home on Plaza del Robles" in 2002 and that she saw him on a regular bases because "it was his house."

114. Respondent Saucier's failure to provide a valid residential address in the Principal Application was deliberate and designed to conceal his whereabouts. His claims in

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[16] Ms. King 's personal limited liability company, Essential Essence Enterprises, LLC, had a contract with Outsource to provide administrative, office management, and secretarial duties for GGLLC and the GG affiliates. Although she was not employed directly by GGLLC, respondent Saucier directed her work and "told [her] what to do."

[17] Ms. Cross and her husband, Ron, operated a limited liability company, JNR Enterprises, LLC, which had a contract with Outsource to provide services for GGLLC and the GG affiliates. Ms. Cross dealt with Therese Watson, who gave instructions to her. JNR Enterprises, Inc. was paid by Outsource for services rendered by Ms. Cross.

the December 2003 interview, and in the 2004 Supplemental Principal Application, were equally deceptive, because respondent Saucier was in fact residing at 2213 Plaza del Robles in Las Vegas at the time the Principal Application was filed. Respondent Saucier's excuse for failing to disclose his residential address (namely, that he was avoiding service of documents pertaining to the Sherron Judgment) was not persuasive as a factor in mitigation.

Failure to Disclose Misdemeanor Conviction for Reckless Driving on the Principal and Business Applications

115. On March 20, 2001, respondent Saucier was arrested for driving under the influence of alcohol (DUI) in Las Vegas, Nevada. On January 9, 2002, in the Justice Court, Las Vegas Township, respondent was convicted, upon his plea of guilty, of a misdemeanor violation of NRS 484.377, reckless driving. Respondent Saucier was ordered to pay $250 in fines and fees; attend DUI School and Victim Impact Panel; and make donations of $125 to the Y.M.C.A Youth Drug and Alcohol Program, and to Speedway Children's Charities. Respondent Saucier was further ordered to perform 96 hours of community service, but was given 96 hours credit for time spent in jail. Court records reflect that respondent Saucier was present in court and was represented by counsel on January 9, 2002. He paid the court fines and donations on April 16, 2002, and notified the court that he had completed DUI School and the Victim Impact Panel on May 9, 2002.

116. Section 3, Question (B) of the Principal Application states:

> Have you in the past 10 years been convicted of any misdemeanor? IF YES, please list the charge, date, city, name/address of the courts involved and the disposition (Including but not limited to DUI, assault and battery, disorderly conduct, minor shoplifting, property damage, public intoxication, trespassing, etc.)

117. In response to Question 3.(B), respondent Saucier checked the "No" box, and wrote "N/A" on the chart provided to supply information about convictions.

118. Question 16 of the Business Application states:

> Has the business, or any of its officers, directors, partners, investors, managers, or principals, ever been a defendant in a civil or criminal action? If YES, complete the following for each: Dates, Court Name/Address, Case Number, Nature of Action, [and] Disposition.

119. In response to Question 16, respondent Saucier checked the "No" box.

120. During the May 9, 2003 interview with Agent Villones, respondent Saucier changed his answer to Question 3.(B) of the Principal Application as follows:

MR. SAUCIER	...under criminal history, uh, first of all I've...
IA VILLONES	That's good...here, but maybe I've looked at so many different applications...but anyway, I'll make note of that. Not convicted of a felony or misdemeanor but arrested for DUI.
MR. SAUCIER	...arrested for DUI about two years ago.
IA VILLONES	Okay, maybe we can get that....

121. Respondent Saucier did not disclose that he had been convicted of reckless driving, and conveyed to Agent Villones that he had not been convicted of a misdemeanor. His statement that the DUI charge had been dismissed was misleading in that he did not disclose that he had entered a plea to another charge arising out of the DUI arrest. Respondent did not provide further information concerning his reckless driving conviction in the Updated and Supplemental Information for the Principal Application submitted to BGC on September 29, 2003.

122. During the interview the BGC investigators on December 23, 2003, respondent Saucier conceded that he "paid a fine for the 'reckless driving,'" that Count 1 (DUI) was amended to "reckless driving," and he pled guilty to the amended Count 1. At that meeting, respondent Saucier and his attorneys questioned whether reckless driving was a misdemeanor in Nevada. However, respondent's claim that he was unaware that he pled guilty to a misdemeanor was not credible, given his presence during court proceedings in Nevada and representation by counsel.

123. Respondent Saucier submitted a Supplemental Principal Application on April 19, 2004. Section 3, Question (B), states:

> Have you in the past 10 years been convicted of any misdemeanor? IF YES, please list the charge, date, city, name/address of the courts involved and the disposition (Including but not limited to DUI, assault and battery, disorderly conduct, minor shoplifting, property damage, public intoxication, trespassing, etc.)

Section 3, Question (B) includes a chart which requests the following information: "Date, Arresting Agency Location – City & State, Original Charge, Final Charge (If amended or reduced), Court Location – City & State, [and] Disposition."

124. Respondent Saucier answered "Yes" to Question 3.(B), and disclosed that the original charge was "DUI," the final charge was "Reckless Driving," and the "disposition" was "DUI Dismissed. Pleading [*sic*] of reckless driving."

125. Respondents argued that respondent Saucier disclosed the fact that he had been arrested for DUI on the principal applications for the Colusa Indian Gaming Commission, the Berry Creek Rancheria Gaming Commission, and the Tule River Gaming Commission, all of which pre-dated the BGC principal application, and which asked if the applicant had been "arrested or convicted of a felony or misdemeanor." However, respondent Saucier's answer to all of these questions was that the DUI charge had been "dismissed." This response was intentionally misleading, since the charge was amended to reckless driving, and respondent entered a guilty plea.

126. Respondents contend that a plea to reckless driving is not material to the qualifications to be a gaming resource supplier, so respondent Saucier's failure to disclose this fact should not be considered a violation of Business and Professions Code section 19859, subdivision (b). This contention is wholly without merit. The series of falsehoods and evasions that surround the eventual disclosure of the reckless driving conviction are indicative of a pattern of dishonesty and lack of candor that hampered the BGC's investigation of respondents' applications. Reckless driving, particularly when the use of alcohol is involved, shows a disregard for the safety of others that is relevant to an assessment of the good character of individuals seeking a finding of suitability in the gaming industry.

Failure to Disclose Court-Ordered Child Support on the Principal Application

127. Respondent Saucier has a daughter, Alixandra Saucier, who was born on December 30, 1993. In 1999, respondent Saucier and his ex-wife, Julie Saucier, entered into a written agreement for the payment of child support, to be paid directly to Julie Saucier, in the amount of $800 per month. The child support agreement was memorialized in a court order in the Superior Court of Washington, County of Lincoln, dated February 10, 2000. Child support was to continue until Alixandra Saucier reached the age of 18, or as long as she remained enrolled in high school. Respondent Saucier's support obligation was discharged on June 8, 2012, when Alixandra graduated from high school.

128. Section 4 of the 2003 Principal Application is entitled "Financial History Information." Question (K) asks for "Gross Annual Income (for household)," by source and amount. Question (L) asks for a "Statement of Assets (for household)," including cash and checking accounts, saving accounts and notes receivable, stocks and bonds, business investments, real estate, and other assets (autos, boats, etc.). Question (M) asks for a "Statement Liabilities (for household)," including accounts payable, taxes payable, notes payable, mortgages payable, and contingent and other liabilities. In response to the above questions, respondent Saucier wrote, "Personal financial statements will follow this application once completed."

129. Respondent Saucier submitted personal financial information as part of the Updated and Supplemental Information dated September 29, 2003. In response to Question 4 (J), respondent Saucier listed his gross annual income as approximately $20,000, without

identifying the source of income. In response to Question 4 (K), statement of assets, he listed cash in the amount of approximately $4,000, and claimed that he did not have any bank accounts (savings or checking). He listed notes receivable from GGLLC, GGNM, GGNV, and GGWA, in the total amount of $64,077, and other assets (miscellaneous personal property) of approximately $2,000. In response to Question 4 (L), statement of liabilities, the only liability respondent Saucier listed was the $1.5 million Sherron Judgment. He did not list the $800 in monthly child support as recurring liability/financial obligation.

130. Respondents contend that the failure to identify child support as a financial liability should be excused because the Principal Application does not specifically ask if the applicant is responsible for the payment of child support. This argument is not persuasive.

131. When respondent Saucier submitted the Supplemental Principal Application on April 19, 2004, the only liability he listed was the $1.5 million Sherron judgment.

132. The issue of child support was first mentioned in the BGC interview with respondent Saucier and Mr. Tabor on April 28, 2004. In response to questions from Agent Villones, respondent Saucier disclosed that he paid child support for Alixandra.

133. Respondents' contention that the failure to disclose child support payments on the Principal Application is not a material misrepresentation is not persuasive. In light of the fact that respondent Saucier claimed to be impoverished at the time he filed the Principal Application, due to the failure of the Spokane Mars Limited Partnership[18] and the pending Sherron Judgment, his financial liability for monthly child support was material and should have been reported.

Misleading Information Regarding College Education

134. Saucier provided false and misleading information as required on the Principal Application regarding his graduation from college, stating that he graduated from the University of Nevada Reno, when he did not. On the 2003 Principal Application and the 2004 Supplemental Principal Application, respondent included the following information: under "Name of School," respondent stated: "University of Nevada"; under "Location (City/State)," respondent Saucier stated: "Reno, NV"; under "Dates of Attendance," "respondent Saucier wrote: "1972-1977"; and under "Graduate," respondent checked "Yes." When read together, the only reasonable inference from this information is that respondent Saucier attended the University of Nevada, Reno (UNR) for five years and graduated (i.e., received a bachelor's degree) from that institution. Instead, the true facts are that respondent Saucier received an Associate of Applied Science degree from Truckee Meadows Community College in December of 1975, and he took some classes at UNR, but did not obtain a bachelor's degree. Respondents' claim that Truckee Meadows Community College

[18] Matters pertaining to the Spokane Mars Limited Partnership are addressed in Findings 183 through 211.

was part of the "University and Community College System of Nevada," and that his response on the applications was not misleading, is wholly without merit. Respondent Saucier's conduct was intentionally misleading. The "school or training program attended" was Truckee Meadows Community College (previously known as Western Nevada Community College," not "University of Nevada." Respondent Saucier's listing of the dates of attendance implied that he received a bachelor's degree.

135. Respondents contend that a college education is not material to the qualifying criteria for suitability by a principal of a Gaming Resource Supplier, and that "to imply that dishonest or deceptive motives were somehow involved in Mr. Saucier's application makes little sense." Respondents' contention is not persuasive. Respondent Saucier's education, training, and background are generally material to a finding suitability, as is his honesty and integrity. The application question was clear and unambiguous, and his misleading response is a material misrepresentation.

Failure to Disclose Respondent Saucier's Involvement in Multiple Civil Actions

136. On the Principal Application, Section 3, Criminal History Information, Question (I), states: "Have you, as an individual, member of a partnership, or shareholder, director, or officer of a corporation, been party to a lawsuit or arbitration within the last 10 years? If YES, provide the following details: Name(s) of Plaintiff(s) and Defendant(s); Date Filed; Court & Case Number; City, County and State; Disposition Date; and Brief Explanation of Issues."

137. On the Principal Application, Section 4, Financial History Information, Question (G), states: "Have you ever been a plaintiff in a civil suit? If YES, explain and give court name and address." Question 4. (H) states: "Have you ever been a defendant in a civil suit and/or had a judgment or lien rendered against you? If YES, explain and give court name and address."

138. Prior to submitting the Principal Application in March of 2003, Robin King suggested to respondent Saucier that he run his credit history to obtain information about his litigation history, in order to disclose this information on various tribal applications. Ms. King asked GGLLC's accountant, Kenneth Seltzer, to assist her in running respondent Saucier's credit. The credit report respondent Saucier received in July of 2002 listed three court cases, which respondent disclosed on the tribal applications and on his March 2003 Principal Application.

139. In 2003, respondent Saucier became aware of the fact that the Santa Ynez Tribal Gaming Commission had discovered litigation beyond what respondent Saucier had disclosed on his application. Respondent Saucier traveled to Spokane to personally check court records. In the September 29, 2003 Updated and Supplemental Information, respondent Saucier disclosed additional litigation. However, respondent Saucier failed to disclose the following lawsuits on the Principal Application:

A. Superior Court, Spokane, Washington; plaintiff: Frances R. Walker OB.; defendant: Two Thousand & Eight West Sunset Blvd et al.; Robert B. Saucier Etui (additional party: Rose T. Bauer Greenwell trust, on behalf of), Reference # 95-2-04579-5, dated August 7, 1995, amount not listed; civil - foreclosure.

B. Superior Court, Spokane, Washington; plaintiffs: Robert B. and Julie Saucier H/W Etui; defendant: Anthony Richard Barnard. Reference # 96-2-00728-0, dated January 31, 1996, amount not listed; civil - foreclosure.

C. Superior Court, Spokane, Washington; plaintiff: Employment Security Department; defendants: Robert B. Saucier, Mars Hotel Corporation and Spokane Mars Limited Partnership et al., Reference # 97-2-05895-8, dated September 30, 1997, amount not listed; civil - tax warrants.

D. Superior Court, Spokane, Washington; plaintiff: Department of Revenue; defendants: Spokane Marts Ltd. et al. Reference # 97-2-06377-3, dated October 17, 1997, amount not listed; civil - tax warrants.

This lawsuit was subsequently disclosed on the April 2004 Supplemental Principal Application, in response to Section 3, Criminal History Information, Question (I): Have you, as an individual, member of a partnership, or shareholder, director, or officer of a corporation, been party to a lawsuit or arbitration within the past 10 years, and Section 4, Financial History Information, Question (H): Have you ever been a defendant in a civil suit and/or had a judgment or lien rendered against you.

E. United States District Court, Western District of Washington at Tacoma; plaintiffs Robert Saucier and Galaxy Gaming Corporation; defendants State of Washington, Washington State Gambling Commission, Lawrence Yokoyama, and Ben Bishop; Case No. C00-5770, filed December 28, 2000; Complaint for Damages.

This lawsuit was disclosed on the April 2004 Supplemental Application – Principal, in response to Section 3, Criminal History Information, Question (I): Have you, as an individual, member of a partnership, or shareholder, director, or officer of a corporation, been party to a lawsuit or arbitration within the past 10 years, and Section 4, Financial History Information, Question (G): Have you ever been a plaintiff in a civil suit.

At hearing, respondent Saucier acknowledged that he was aware of this litigation against the Washington State Gambling Commission (WSGC), having been a plaintiff in the action, and should have disclosed it on the Principal Application in 2003.

140. The civil actions set forth above were identified by Agent Villones in November of 2002 when she ran a Lexis/Nexis search of respondent Saucier's name.

141. Respondents contend that respondent Saucier was diligent in his efforts to disclose litigation pertaining to him. He further stated that, since he left Washington after the

demise of the SMLP, he was not served with a number of these lawsuits and was unaware of their existence. Respondent Saucier did take steps to locate and disclose litigation on the Principal Application. However, there was no excuse for respondent Saucier's failure to disclose the lawsuit against the WSGC identified in Finding 139.E.

Failure to disclose associated businesses in the Principal Application and/or the Business Application:

142. Section 1 of the 2003 Principal Application requires the applicant to disclose "Personal History Information." Question 1. (I) BUSINESS INTERESTS, requires the principal to "List all businesses, corporations and partnerships with which you are or have been associated within the past 15 years as an owner, officer, director, shareholder, partner or other related capacity."

143. Question 4 on the 2003 Business Application states: "describe below any current or previous business relationship(s) with the gaming industry, including ownership interests in those businesses. For each, list the name of business, address, nature of business relationship, and dates of relationship."

144. The Statement of Issues, as amended, alleges that respondents failed to disclose 16 associated businesses, which are addressed individually below.

(1) Spokane Mars Limited Partnership [19]

145. Respondent Saucier disclosed his business interest in the Mars Hotel Corporation (MHC) on the 2003 Principal Application in March of 2003, by stating:

(a) Dates of Involvement - 1992 to October 1998;

(b) Name/Mailing Address - Mars Hotel & Casino, 300 W. Sprague Ave., Spokane WA;

(c) Name of Corporation/Partnership - Mars Hotel Corporation;

(d) Capacity/Title - President; and

(e) % Ownership/# Shares Owned was listed as 67%.

Respondent Saucier deliberately omitted reference to the SMLP from his application because he had "no ownership in SMLP." However, respondent Saucier was a limited partner of the SMLP from the date it was formed until the date the limited partnership shares

[19] Matters pertaining to the Spokane Mars Limited Partnership, Mars Hotel and Casino, and the Mars Hotel Corporation, are addressed in Findings 183 through 211.

in the SMLP were sold. Furthermore, respondent Saucier had a majority interest in, and controlled, the MHC; the MHC was the managing general partner and majority owner of the SMLP; and respondent Saucier was the general manager of the SMLP from July 1997 through November 1998. Given the broad language in the Principal Application requiring disclosure of businesses with which you have been associated in a related capacity, respondent Saucier should have disclosed the SMLP as an associated business interest. The omission was particularly serious because it was the SMLP that actually ran the Mars Hotel and Casino as a gambling operation, it was the SMLP that went bankrupt, and it was the SMLP that was in the Card Room Enhancement Program (CREP) and was the subject of an administrative action to remove it from that program.[20]

146. In the 2004 Supplemental Principal Application, respondent Saucier did not separately disclose the SMLP as an associated business, but stated: "The Mars Hotel Corporation was not in the gaming industry, but it was the managing general partner of the Spokane Mars Limited Partnership, which owned and operated a casino."

(2) Zephyr Cove Capital, LLC

147. Zephyr Cove Capital, LLC (Zephyr) was a Nevada limited liability company formed on or about October 9, 1997. GGCORP was the managing member of Zephyr. Zephyr was formed as part of the SMLP's Chapter 11 reorganization plan, with the intention that it would supplant the financially insolvent SMLP as the operator of the Mars Hotel and Casino. Zephyr did not conduct business and did not have a bank account; it was administratively dissolved on or about October 31, 1998. Respondent Saucier was the majority shareholder and president of GGCORP, and GGCORP was a predecessor entity to GGLLC. Under these circumstances, Zephyr should have been disclosed on the Principal Application.

(3) Galaxy Gaming Affiliates

148. Respondent Saucier disclosed his business interest in "Galaxy Gaming & Affiliates" on the 2003 Principal Application in response to Question 1.(I). He provided the following information:

(a) Capacity/Title - Member/Manager; and

(b) % Ownership/# Shares Owned was listed as "Varies."

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[20] On the 2003 Principal Application, in response to Section 2. Other Licensing Information, Question (4), regarding whether the principal has "ever held a financial interest in a gambling venture..." respondent Saucier checked "Yes," and disclosed that he was involved with the Mars Hotel and Casino in Spokane, Washington from 1995 to 1998, and that his partners included Charles and Kathy Watson, Ben and Gloria Saucier, and Steve Quinones. He did not disclose the existence of the SMLP, which owned and operated the Mars Hotel and Casino.

On the Updated and Supplemental Information submitted on September 29, 2003, respondents listed 10 GG affiliates, in addition to GGLLC and GGCA. However, respondents neglected to list the following GG affiliates: Galaxy Gaming of Missouri, LLC (GGMO); Galaxy Gaming of Mississippi, LLC (GGMS); Galaxy Gaming of New Jersey, LLC (GGNJ); Galaxy Gaming of New York, LLC (GGNY); and Galaxy Gaming of South Dakota, LLC (GGSD). All of these GG affiliates were disclosed on the 2004 Supplemental Background Information – Principal Application. Two of the entities, GGSD and GGMS, were engaged in the business of licensing intellectual property by April 2004; two others, GGMO and GGNY, were dormant "shell" entities that had no members or managers and had not conducted any business operations as of April 2004. The final affiliate, GGNJ, had respondent Saucier as a five percent member, but had no business operations as of April 2004.

149. The evidence did not establish that respondent Saucier intentionally omitted the above affiliates from the list provided in the Updated and Supplemental Information in September of 2003. However, the "oversights" are directly attributable to the complex business structure implemented by respondent Saucier, in that he was apparently unable to keep track of the GG affiliate entities that had been formed or their business status.

(4) Entities Owned and Operated by Third Parties

150. Outsource Management, LLC (Outsource) – Respondent Saucier was a member of Outsource when it was formed, along with Therese Watson. GGLLC, the manager of GGCA, contracted with Outsource to provide accounting, bookkeeping, secretarial, and other office-related services to GGLLC and the GG affiliates. Under these circumstances, respondent Saucier should have disclosed Outsource as a business with which he had been associated in the past 15 years on the Principal Application.

151. Durango Associates, LLC (Durango), and JNR Enterprises, LLC (JNR) – Durango was a limited liability company in which Therese Watson was a member, and through which Outsource paid Ms. Watson for her business-related services to GGLLC and the GG affiliates. Similarly, JNR Enterprises, LLC (JNR) was the limited liability company in which Joan Cross was a member, and through which Outsource paid Ms. Cross for business-related services to GGLLC and the GG affiliates. As the manager of GGLLC, which in turn was the manager of GGCA, respondent Saucier gave direction to Ms. Watson and Ms. Cross that affected the day-to-day operations of GGLLC and the GG affiliates. While he did not have financial control over these entities, he had a large degree of actual control over their operations as they pertained to GGLLC and the GG affiliates. Therefore, respondent Saucier was "associated" with Durango and JNR in a "related capacity," and these businesses should have been disclosed on the Principal Application.

152. Intergalactic Enterprises, LLC (Intergalactic) – At hearing, respondent Saucier admitted that he was a member and "most likely" the manager of Intergalactic, and that he authorized the creation of a bank account for Intergalactic. He conceded that Intergalactic

should have been listed on the Principal Application, and that its omission was "an oversight."[21]

153. Primetime Player Management, LLC (Primetime) was a limited liability company of which Joe Purcell was the member and manager. Primetime contracted with GGCA to provide sales support for GG products in California.[22] According to respondent Saucier, Mr. Purcell was authorized to sign licensing agreements on behalf of GGCA with respondent Saucier's prior approval.

Silver Bush, LLC (Silver Bush), was a limited liability company of which Norm Abens was the member and manager. Silver Bush contracted with some of the GG affiliates LLCs (including North Dakota, South Dakota, Iowa, Missouri, New Mexico, and Kansas) to perform sales functions for GG products in those jurisdictions.

Rockland Ridge Corp. (Rockland Ridge) was a Nevada corporation owned by Gary Saul. Rockland Ridge held contracts with GGCORP, GGWA and GGBC to perform sales functions for GG products in those jurisdictions.

While respondent Saucier did not have a financial interest in or financial control over these entities, he had a large degree of actual control over their operations as they pertained to GGLLC and the GG affiliates. Therefore, respondent Saucier was "associated" with Primetime, Silver Bush, and Rockland Ridge in a "related capacity," and these businesses should have been disclosed on the Principal Application. Furthermore, these three entities were directly involved in gaming activities in that they provided sales support for GGLLC and the GG affiliates. Given the management relationship between GGLLC and the GG affiliates, these three entities should have been disclosed on the Business Application as "current or previous business relationship(s) with the gaming industry."

154. Blue Dolphin, LLC (Blue Dolphin), and Canyon Road Designs, LLC (Canyon Road) were "shell" entities formed by Outsource. Respondent Saucier was not a manager or member of Blue Dolphin or Canyon Road, and the evidence did not establish that these entities had manager/s members or that they engaged in business operations. Under these circumstances, it was not established that these limited liability companies were connected with respondents, and they were not required to be disclosed on the Principal Application as an associated business.

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[21] Intergalactic, with respondent Saucier as the authorized representative, was listed as the manager of GGNV, in a service agreement between Galaxy Gaming of Nevada, LLC (GGNV) and Nothing Ventured. However, respondent Saucier testified that this was "a mistake," because GGCCL was the manager of GGNV.

[22] Primetime had separate agreements to represent GG affiliates in Mississippi, New Jersey, New York, Nevada, and Arizona.

Information Provided to BGC Staff regarding the Ownership Structure and Control of Outsource Management, LLC.

155. As was previously stated, respondent Saucier did not disclose his relationship with Outsource on the 2003 Principal Application (Finding 150). During the December 23, 2003, interview with BGC investigators, respondent Saucier stated that Outsource leased the premises at 2213 Plaza del Robles in Las Vegas, and "then Outsource provides us with a service. It's not uncommon in this industry for companies to not need elaborate offices and instead use executive suite services. That's very very common. A number of our competitors have done that and over time I've done that as well. I have never managed this company myself. I have always contracted out with different companies to handle bookkeeping, management, business-type services and quite often I use their offices."

Respondent Saucier "assumed" that the lease on Plaza del Robles was in the name of Outsource, rather than an individual. When asked about credit cards he used to rent cars and hotels, he stated that, "I use an Outsource card, card issued to Outsource and I use a card issued to Galaxy.... Well, it used to be Galaxy Gaming Corporation and now it's Galaxy Gaming, LLC." He confirmed that Outsource obtained the credit card for him. When Agent Villones asked respondent Saucier, "Who owns Outsource," he responded: "Well, I believe Therese and I don't know who else, if anyone. But that would be a question to ask her." Respondent Saucier did not acknowledge that, when Outsource was initially formed, he held a 50 percent membership interest.

156. When asked "how Galaxy is run," respondent Saucier stated:

> ...the way it's split is that all of the administrative functions, anything associated with the administrative functions of the company is contracted out to Outsource. Outsource is responsible for all of that. My focus is really two areas. I focus on developing games and then I focus on trying to sell the games in the casinos. I work with the different reps that we have that, that get those games in...so I am actively involved in those two areas. I am very remotely involved in the administrative, legal or financial.

157. Respondent Saucier's statements about his involvement with and direction to Outsource was contradicted by the testimony of Robin King, who credibly testified that respondent Saucier was a signatory to the Outsource checking account; that Ms. King prepared checks for respondent Saucier's signature; and that once Therese Watson taught her how to "get into the system," i.e. familiarized her with Outsource's bookkeeping and accounting system, Ms. King received direction from respondent Saucier regarding issuing checks.

158. As set forth above, respondent Saucier was less than completely candid when explaining his activities in connection with administrative functions supposedly carried out

by Outsource, and by failing to disclose his initial involvement with the formation of Outsource. However, it was not established that respondent Saucier provided false or misleading information to BGC investigators when he stated, essentially, that he did not know if Outsource had any members other than Therese Watson as of December 2003.

Failure to disclose respondent Saucier's Employment as the General Manager of the Spokane Mars Limited Partnership from July 1997 through October 1998

159. Section 1, Question (F) of the Principal Application requires that the applicant set forth his or her employment history: "Beginning with your current employment, list your employers, assignments, volunteer activities, military experience, and periods of unemployment during the last 15 years." As part of his employment history, respondent Saucier stated that he was president of the Mars Hotel Corporation from 1992 to October 1998, that he performed "exec[utive] duties," and that his "Reason for Leaving" was "company dissolved."

Section 1, Question (I) on the Principal Application requires that the applicant disclose his or her business interests: "List all businesses, corporations and partnerships with which you are or have been associated within the past 15 years as an owner, officer, director, shareholder, partner or other related capacity." Respondent Saucier disclosed that he was the president of the Mars Hotel Corporation from 1992 to October 1998, and that he had a 67 percent ownership share. Respondent Saucier did not disclose that he was the general manager of the SMLP from July 1997 through October 1998 in either of these sections on the Principal Application.

In Section 2, Question (E) on the Principal Application, which asked whether the applicant "ever held a financial interest in a gambling venture, including, but not limited to: gambling establishment (cardroom), race track, race horse or dog, lottery, casino, bookmaking operation, pari-mutual operation, or bingo parlor?" respondent Saucier answered "Yes," and identified the "Name and Location of Business" as "Mars Hotel & Casino, Spokane WA." He listed the "Dates of Involvement" as "95-98," and the "Names of All Partners" as "Charles & Kathy Watson, Ben & Gloria Saucier, and Steve Quinones."[23] He did not specifically identify the "Mars Hotel & Casino" as the SMLP.

160. Respondents did not add any information about respondent Saucier's involvement with the SMLP in the September 29, 2003 Updated and Supplemental Information for the Principals Application.

161. When asked in the December 23, 2003 interview with BGC investigators why he did not disclose his relationship with the SMLP under business interests in the Principal Application, respondent Saucier stated that it was because he "had no ownership in SMLP," and denied he was an "officer" of SMLP.

[23] These individuals were the limited partners in the SMLP.

162. In the April 19, 2004 Supplemental Principal Application, respondent Saucier acknowledged, in response to Section 1, Question (F), "EMPLOYMENT HISTORY," that he was the General Manager of the SMLP from July 1997 through October 1998, and that his duties were to "Oversee operations." In response to Section 2, Question (E), concerning financial interests in gambling ventures, respondent Saucier gave the following explanation:

> The Principal held a financial interest in a corporation that in turn held a financial interest in a limited partnership that in turn owned and operated a casino in Washington State.
>
> The Mars Hotel & Casino was a gambling venture located at 300 W. Sprague Avenue in Spokane, Washington. From May 1993 through November 1998 the Principal was a shareholder in the Mars Hotel Corporation (MHC). MHC was the managing general partner of the Spokane Mars Limited Partnership (SMLP), which owned and operated the Mars Hotel & Casino. MHC had two shareholders: the Principal (66.7%) and Billy Anders (33.3%). In addition the Principal was a creditor of SMLP, having lent money to the venture. SMLP had three limited partners: (1) Julian Quinones; (2) Charles and Kathy Watson; and (3) Ben and Gloria Saucier (the Principal's parents). As explained above, the Principal was not a partner in SMLP. However, SMLP was managed by its general partner, MHC, in which the Principal was a shareholder.
>
> From its inception in 1992 through July, 1997, MHC was run by its President, Billy Anders. Mr. Anders also served as General Manager of the Mars Hotel & Casino. In July 1997, SMLP was in dire financial condition and was on the verge of collapse. Mr. Anders was dismissed of all of his duties and the Principal was appointed President of MHC. In addition, the Principal served as General Manager of the Mars Hotel & Casino from July 1997 through October 1998. As part of its plan to turn the business around, SMLP elected to reorganize through a Chapter Eleven filing in November 1997. SMLP continued to operate until its bankruptcy status was converted to Chapter Seven status in November 1998.
>
> The bankruptcy was by SMLP, not by MHC or the Principal. The Principal lost his financial interest (estimated to be over $1.5 million) at the closure of the bankruptcy case which occurred in 2001. In addition, he has an outstanding debt of $825,000 plus interest due to Sherron Associates Loan Fund V as a result of a loan to SMLP that required the Principal's personal guarantee. Rather than eliminating the debt obligation

> via bankruptcy, the Principal is working to build a successful business to facilitate the means to support a negotiated settlement with the debtor.

163. At hearing, respondent Saucier acknowledged that he should have disclosed his role as general manager of the SMLP on the 2003 Principal Application. In their post-hearing brief, respondents argued that, "[a]lthough Mr. Saucier served as interim general manager of the Mars, his authority came from SMLP's managing general partner, the MHC. Specifically, Mr. Saucier's authority over SMLP came from his role as majority shareholder and chief executive officer of the MHC, the managing general partner of SMLP. Further, a general manager is not an officer or director role, and there is no statutory requirement or definition of 'general manager' in any state." This argument does not excuse respondent Saucier's failure to acknowledge his role with the SMLP in the Principal Application in a clear and straightforward manner. Respondent Saucier was motivated to minimize his role in SMLP, given the bankruptcy filing by SMLP in 1997.

Failure to Disclose Denial of Applications for Finding of Suitability by the Tule River Tribal Gaming Commission

164. GGCA filed an application for a vendor license with Tule River on October 21, 2002. In a letter dated December 13, 2002, Tule River notified GGCA that, "[a]fter reviewing the investigative findings, and considering the applicant's prior activities, criminal records, reputation, habits and associates the Gaming Commission has come to the decision that your application should be denied" based on four enumerated grounds. (Underlining in original.) The letter advised respondents of their "right to a hearing before the Tule River Gaming Commission regarding this decision." Respondents requested a hearing, and responded in writing to the four grounds for denial. Despite respondent Saucier's telephone contacts with individuals at Tule River, a hearing was not scheduled until May 8, 2003. The hearing was rescheduled to July 10, 2003. Respondent Saucier attended the July hearing. After the hearing, respondent Saucier contacted Agent Villones and requested that she contact Tule River and inform them that respondent Saucier had never filed a personal bankruptcy. Agent Villones was aware of the fact that respondents had requested a hearing concerning the pending Tule River application. On or about July 15, 2003, Tule River sent a letter to Agent Villones concerning the status of the GGCA vendor application, which stated:

> The Tule River Tribe Gaming Commission is in the hearing process with Mr. Robert Saucier. The Gaming Commission is aware of the investigation your department is doing on Mr. Saucier due to the conversations our staff has had with you regarding Mr. Saucier. It would be very beneficial if you could supply the Tule River Tribe Gaming Commission with any information that may help in our hearing process with Mr. Saucier.

165. Tule River notified respondents that the hearing was continued to August 14, 2003. Tule River rescheduled the hearing to August 21, 2003. In a letter dated August 13, 2003, respondents notified Tule River that the August 21, 2003 hearing date created a scheduling conflict, and requested possible future hearing dates. By letter dated September 11, 2003, attorney Frank Miller notified Tule River that he represented respondents. Despite efforts by respondent Saucier and his attorneys, no further hearing was scheduled on GGCA's vendor application with Tule River, and no final order of denial was ever issued by Tule River.

166. On the March 2003 Business Application, respondents listed the Tule River license application as "pending but applied for." Question 8 (b) on the business application requires answers to the following: "Agency, Tribe, or State applied to"; "Action taken"; and "Describe any disciplinary action, suspension, revocation or denial." Respondents left these items blank. In the September 29, 2003 Updated and Supplemental Information for the Principals Application, respondent Saucier listed Tule River, with the status "Pending Review," in response to Section 2 Question (F), at page 12, which stated:

> Have you ever withdrawn an application and/or been denied for a gambling registration, license, or related finding of suitability or been a participant in any group which has withdrawn an application and/or been denied for a gambling registration, license, or related finding of suitability in any state? If YES, provide the following details: Gambling Establishment Name & Address; Licensing Agency; Date & Reasons for Withdrawal and/or Denial.

167. Complainant contends that respondents failed to disclose the denial of the Tule River application as required on the Business Application. However, respondents did disclose the denial, with the explanation "pending review," on the Principal Application. These representations were accurate, since respondents were involved in a hearing process that had not concluded as of September 29, 2003.

168. In the April 2004 Supplemental Business Application, respondents stated that the Tule River license application was "Denied until further disclosure and clarification of information on application," effective December 13, 2002.

Failure Disclose Denial of Application for Findings of Suitability by the Colusa Indian Gaming Commission.

169. GGLLC applied for a vendor license with the Colusa Indian Gaming Commission (Colusa) on June 12, 2002. In a letter dated March 20, 2003, Colusa notified GGLLC and respondent Saucier that the application had been denied, and advised respondent Saucier of his appeal rights. After a hearing conducted on May 14, 2003, at which respondent Saucier appeared and "the [Colusa] Gaming Commission heard your [respondent Saucier's] side of several issues," Colusa confirmed the denial in a letter dated

August 4, 2003, stating: "The Gaming Commission has determined that you do not meet the minimum standards or requirements for issuance of a license, and therefore denies your license" for several enumerated reasons. The August 4, 2003 letter further stated:

> Please be apprised that the Gaming Regulations of the Colusa Indian Community [*sic*] shall not be eligible to apply for a new license or permit for one year after the effective date of the revocation. Finally, although the Gaming Commission may amend its order to revoke your license at any time, this decision is final and not otherwise reviewable. (Section IV.(E)(6) of the Gaming Regulations.)

170. Despite the language in the August 4, 2003 letter stating that the decision was "final," and that GGLLC was not eligible to apply for a new license or permit for one year, respondents stated on the September 29, 2003 Updated and Supplemental Information for the Principals Application that the application to Colusa was "pending review."[24] This statement was false and misleading. Respondent contend that they did not believe there had been a final decision because Colusa "could amend its order...at any time," and respondent Saucier and his attorneys were still in discussions with Colusa about licensure. This argument was not persuasive. In the April 2004 Supplemental Business Application, respondents stated that the Colusa license application was "Denied until further disclosure and clarification of information on application," effective August 4, 2003. In its Attachment: BUSINESS: Pg-4: Question 8, to the April 2004 Supplemental Business Application, respondents stated with respect to Colusa that the "initial application was denied. The agency advised the applicant to reapply. The new application was submitted on April 19, 2004." Colusa ultimately issued a license to GGCA on June 2, 2004.

Failure to Disclose Gaming Licenses Held with the Berry Creek Rancheria Tribal Gaming Commission, the Paskenta Gaming Authority, and the Viejas Tribal Gaming Commission.

171. Respondents disclosed gaming licenses held with the Berry Creek Rancheria Tribal Gaming Commission (Gold Country Casino) and the Paskenta Gaming Authority (Rolling Hills Casino) in the Updated and Supplemental Information for the Business

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[24] Respondents did not initially disclose the pending Colusa application on the Business Application in March of 2003 in response to Question 8 at page 3 ("Has this business ever applied to any licensing or regulatory agency for a license, permit, or authorization relating to gaming, whether or not such license, permit, or authorization was granted?") At hearing, respondent testified that it was not disclosed because the Colusa application was filed by GGLLC not GGCA. Given the acknowledged transition of business in California from GGLLC to GGCA, this explanation did not excuse the failure to disclose.

Application submitted to BGC on September 29, 2003.[25] Therefore, complainant's allegations were not established by the preponderance of the evidence as to those licenses.

172. In the April 19, 2004 Supplemental Business Application, respondents disclosed that GGCA held a business license with the Viejas Tribal Government Gaming Commission (Viejas), which was issued on July 9, 2002, effective July 23, 2002. This license was not disclosed on the 2003 Business Application. Respondents contend that they were not obligated to disclose Viejas because neither GGLLC nor GGCA ever conducted business with Viejas. Other tribal licenses were disclosed in response to questions asking the applicant to "list any significant customers (i.e., accounting for 10 percent or more of revenues), loss of which would have a significant adverse effect"; and a "list of current customers." However, respondents should have disclosed Viejas in response to Question 8 at page 3 of the business application which stated: "has this business ever applied to any licensing or regulatory agency for a license, permit, or authorization relating to gaming, whether or not such license, permit, or authorization was granted?" Respondents' arguments to the contrary were not persuasive.

Failure to Disclose Appearances and/or License Applications with Other State Gambling Agencies and Out-of-State Tribal Gaming Agencies

173. Section 1 of the Principal Application completed by respondent Saucier in March of 2003 pertains to "Personal History Information." Question (I) states:

> BUSINESS INTERESTS: List all businesses, corporations and partnerships with which you are or have been associated with [*sic*] in the past 15 years as an owner, officer, director, shareholder, partner or other related capacity.

In response to this question, respondent Saucier disclosed "Galaxy Gaming & Affiliates," from "11/98 – present." Under "Capacity/Title," he listed "member/manager," and under "% Ownership/# Shares Owned," he stated "varies." In response to questions about "Primary Purpose" and "Amount of Investment," respondent Saucier placed question marks. Respondent Saucier also disclosed that he was the president of the Mars Hotel Corporation from 1992 to October 1998.

174. Section 2 of the Principal Application completed by respondent Saucier in March of 2003 pertains to "Other Licensing Information." Question (A) states:

> Have you ever held or applied for a permit, license, or certificate related to gaming, whether or not such license, permit, or certificate was granted? If YES, list below any licensing or

[25] These licenses were disclosed on the September 29, 2003 business application in the same manner as the license issued to GGLLC by the Blue Lake Tribal Gaming Agency, which complainant conceded in its closing argument was sufficient.

regulatory agency (tribal, state, or local) to which you have applied for a license, permit, or certificate related to gaming activities or lottery, whether or not such license, permit, or certificate was granted. (Include any applications denied, withdrawn, and/or pending.)

Question (D) states:

> Have you ever appeared before any licensing agency or similar authority either inside or outside the State of California, for any reason whatsoever? If YES, provide complete details:

Question (F) states:

> Have you ever withdrawn an application and/or been denied for a gambling registration, license, or related finding of suitability or been a participant in any group which has withdrawn an application and/or been denied for a gambling registration, license, or related finding of suitability in any state? If YES, provide the following details: Gambling Establishment Name & Address; Licensing Agency; Date & Reasons for Withdrawal and/or Denial.

Respondent Saucier answered "No" to the above questions.

175. Respondent Saucier failed to disclose appearances and/or licensing applications with other state gambling agencies and out-of-state tribal gaming agencies in the 2003 Principal Application, as set forth below.

(1) Washington

176. Washington State Gambling Commission (WSGC) – GGCORP was licensed by the WSGC on December 7, 1999, through May 14, 2004. This fact was noted by Agent Villones in a report she prepared dated October 24, 2002, as part of her initial investigation at the request of Tule River. Respondents subsequently disclosed GGCORP's license with GSGC in the supplemental disclosure materials that accompanied the April 2004 Supplemental Applications.

Respondent Saucier did not disclose the fact that he personally appeared numerous times before the WSGC, despite the fact that, as confirmed by the testimony of former WSGC Executive Director (and former attorney for respondents) Frank Miller, in the mid-1990s, respondent Saucier "attended every meeting [of the WSGC] and he would speak at every meeting almost."

GGCORP was the subject of a license revocation action by the WSGC that resulted in an "Agreed Order" under which respondent Saucier, as the president and majority shareholder of GGCORP, signed a release of liability with respect to the State of Washington "for himself and Galaxy." Thus, respondent Saucier "appeared" before the WSGC in the license disciplinary proceedings. Respondent Saucier's testimony that he considered "appearance" to be synonymous with "physical presence" was not persuasive as an excuse for failure to disclose. As complainant persuasively argued, such a narrow interpretation would contravene the rationale for requiring disclosure in relation to proceedings before gaming agencies and would allow appearances through counsel to insulate applicants from their obligation to disclose their involvement in disciplinary and other licensing proceedings.

177. Nisqually Tribal Gambling Commission (Nisqually) – GGCORP[26] was licensed by Nisqually from October 5, 2001, through November 7, 2004. In October of 2002, Nisqually Agent Supervisor Dwayne Waters informed Agent Villones that the license was in good standing, as part of her initial investigation at the request of Tule River.

Respondents disclosed GGWA's license with Nisqually in the supplemental disclosure materials that accompanied the April 2004 Supplemental Applications.

(2) Iowa

178. Iowa Gaming Commission (the Sac & Fox Tribe of the Mississippi) – GGCORP was licensed by the Sac & Fox Tribe of the Mississippi (Sac & Fox) from July 10, 2001, through July 31, 2003. GGCORP chose not to renew the license. Respondent Saucier and GGLLC disclosed this license on their license application with the Blue Lake Tribe on May 30, 2002, and Agent Villones received verification of this license from Sac & Fox on November 1, 2002, as part of her initial investigation at the request of Tule River.

Respondents disclosed GGCORP's license with Sac & Fox in the supplemental disclosure materials that accompanied the April 2004 Supplemental Applications.

(3) New Mexico

179. Taos Pueblo Gaming Commission (Taos) – GGLLC was licensed by Taos from approximately April 16, 2002, through May 6, 2003. GGLLC elected not to renew the license. Taos Director Troy Ford informed Agent Villones in October 2002 that Taos would relicense GGLLC if they requested it because there was no derogatory information.

Respondents disclosed GGLLC's license with Taos in the supplemental disclosure materials that accompanied the April 2004 Supplemental Applications.

[26] The license was later transferred to GGWA.

180. San Juan Pueblo Gaming Commission (San Juan) – GGLLC was licensed by San Juan from approximately March 22, 2002, through April 13, 2004. GGLLC elected not to renew the license. Vendor License Agent Martha Trujillo confirmed GGLC's license to Agent Villones in October 2002 in the course of her investigation assisting Tule River.

Respondents disclosed GGLLC's license with San Juan in the supplemental disclosure materials that accompanied the April 2004 Supplemental Applications.

(4) Oregon

181. Grand Ronde Tribal Gaming Commission (Grand Ronde) - GGCORP initially applied for a vendor license with Grand Ronde in 2000, which led to a suitability investigation by the Oregon State Police (OSP) Tribal Gaming Section after OSP received a letter of intent to conduct business from Grand Ronde. The OSP did not complete its investigation. GGLLC applied for a vendor license with Grand Ronde in 2002; OSP closed its investigation file in or about July of 2002. In a report prepared by Agent Villones on October 24, 2002, in connection with her investigation assisting Tule River, she noted that an application to Grande Ronde from GGOR was "to be submitted," and that GGOR had an application "pending" with OSP Tribal Gaming Section.

GGOR applied for a vendor license with Grand Ronde on January 13, 2004.

Respondents disclosed GGOR's license application with Grand Ronde in the supplemental disclosure materials that accompanied the April 2004 Supplemental Applications. Earlier contacts with Grand Ronde were not disclosed.

(5) Discussion

182. Respondents contend that, since neither respondent Saucier nor GGCA applied for licenses with the WSGC, Nisqually, Sac & Fox, Taos, San Juan, or Grand Ronde, it was reasonable for respondent Saucier to omit reference to these licenses in the 2003 applications. Respondents' contention is not persuasive. Respondent Saucier, as the principal for other GG entities, understood that the purpose of the principal application was to determine his suitability personally, and that his involvement with other GG entities would make the information pertaining to licensure in other jurisdictions relevant to the BGC's investigation. Respondents' narrow interpretation of and answers to questions demonstrated evasiveness and lack of candor and a failure to divulge information required to be disclosed on the principal application.

Third Cause for Denial of Application (as amended)[27]*– Prior activities of respondent Saucier that create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of controlled gambling and in the carrying on of the business and financial arrangements incidental to controlled gambling*

Respondent Saucier's Prior Activities in Washington State

(1) History of the Mars Hotel and Casino

183. On September 28, 1992, respondent Saucier purchased the Arlington Hotel (located in downtown Spokane, Washington) from the bankruptcy estate of John Guthrie for between $280,000 and $325,000. On October 7, 1992, respondent formed the Arlington Hotel Corporation (AHC) which was incorporated in Washington. Respondent Saucier contributed the Arlington Hotel building to AHC in exchange for 100 percent of AHC's outstanding shares. Respondent Saucier was the President and Treasurer, and his then-wife Julie Saucier was the Secretary. AHC began renovation of the Arlington Hotel, with additional capital contributions into AHC made by respondent Saucier.

184. On May 28, 2003, respondent Saucier formed the Mars Hotel Corporation (MHC) which was incorporated in Washington. At formation, respondent Saucier was the 100 percent shareholder, and was President/Secretary/Treasurer.

185. On November 23, 1993, the Spokane Mars Limited Partnership (SMLP) was formed in Washington. According to respondent Saucier, SMLP was organized as an investment vehicle to raise money to renovate the hotel buildings.

186. On January 18, 1994, SMLP purchased the Arlington Hotel from AHC for $1.25 million, which it paid with a promissory note from SMLP to AHC. At the close of sale, AHC was financially responsible for completion of certain renovations of the Arlington Hotel (Phase 1), and SMLP was to be responsible for all future renovations. MHC assumed the $1.25 million promissory note and obtained a 75 percent partnership interest in SMLP.[28] MHC became the managing general partner of SMLP. Respondent Saucier acquired a 25 percent limited partner interest in SMLP via a $500,000 promissory note to SMLP. Respondent Saucier intended to sell his limited partnership interest to outside investors, and use the proceeds to pay off the promissory note to the SMLP.

187. On February 17, 1994, Charles and Katherine Watson (C&K Watson) acquired a 4.95 percent (later increased to 6.2 percent) limited partnership interest in SMLP from respondent Saucier in exchange for $100,000, which was used to reduce the amount of the

[27] The Second Cause for Denial of Application was dismissed by complainant.

[28] This meant that SMLP owed AHC $1.25 million, and MHC took over responsibility for that debt in exchange for a 75 percent partnership interest in SMLP.

promissory note from $500,000 to $400,000. On March 21, 1994, respondent Saucier's parents, Benjamin and Gloria Saucier (B&G Saucier), acquired a 4.95 percent (later increased to 6.2 percent) limited partnership interest in SMLP from respondent Saucier in exchange for $100,000, which was used to further reduce the amount of the promissory note from $400,000 to $300,000.

188. In the spring of 1994, respondent Saucier and Billy Anders entered into an agreement to own and operate a hotel, restaurant, and lounge at the location of the old Arlington Hotel. Mr. Anders received 15 percent of the outstanding shares of the MHC for no financial consideration. Mr. Anders became President, Chief Operations Officer (COO) and a Director of MHC. Mr. Anders also became the general manager of the SMLP, for which he was to be paid $5,000 per month.[29]

In May of 1994, the SMLP began operation of the renamed Mars Hotel and Casino (the Mars), by opening a restaurant called the II Moon Café. Steve Quinones was hired as the restaurant manager.

189. Respondent Saucier was unable to sell his remaining 15.1 percent limited partnership interest in SMLP to investors. Consequently, on December 8, 1994, respondent Saucier conveyed his limited partnership interest back to SMLP in satisfaction of the remaining $300,000 due on the promissory note. As of that date, MHC held an 87.6 percent interest as general partner of the SMLP, and C&K Watson and B&G Saucier each held 6.2 percent interests as limited partners of the SMLP.

190. In order to pay the promissory note referenced in Finding 186 above, respondent Saucier took out a loan from Washington Trust Bank. At hearing, respondent testified that Washington Trust Bank made a commercial loan to AHC with respondent as the "guarantor," and that AHC loaned the proceeds to SMLP. This testimony was uncorroborated and was not credible. Respondent Saucier introduced SMLP financial records (SMLP Interest Expense FY 96, and SMLP Balance Sheet as of December 31, 1997), both of which reference loans payable to "Saucier" (including a long term liability as of December 31, 1997 entitled "R. Saucier Special Loan," in the amount of $365,260.05). None of the SMLP records reflect any loan payable to AHC (or to MHC).

191. AHC was dissolved on January 23, 1995. As part of the dissolution process, on December 31, 1994, AHC conveyed the $1.25 million "SMLP to MHC" promissory note to respondent Saucier in exchange for 100 percent of his shares in AHC.[30]

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[29] As the majority shareholder of MHC, respondent remained the chairman of the board of directors and Chief Executive Officer (CEO) of the MHC, with ultimate authority on matters of policy. As President and COO, Mr. Anders reported to respondent Saucier as CEO and Board Chairman.

[30] This meant that MCH now owed $1.25 million to respondent Saucier (see footnote 28).

192. On June 1, 1995, SMLP obtained $571,000 in financing from Empire Securities, Inc. (ESI) in the form of a promissory note, with interest payable of approximately $5,100 per month.

193. Melissa Beckett[31] was hired as financial controller of the Mars in late 1995. According to Ms. Beckett, she reported primarily to Mr. Anders. However, as the majority shareholder of the MHC (which was the managing partner of the SMLP), respondent Saucier "had the ability to set policy, offer advice, and control cash flow."

194. Restaurant operations at the Mars were expanded, and the "Ugly Rumors" cocktail lounge opened in December of 1995. In the spring of 1996, the SMLP was granted a gaming license by the Washington State Gambling Commission (WSGC) in early 1996. In April of 1996, the Mars began casino table game operations. Michael Mounchin was hired as the casino manager, and he served in that capacity until the fall of 1996.

195. According to the testimony of both Mr. Anders and Ms. Beckett, Mr. Anders was not involved in the casino operations.

196. Ms. Beckett testified that, for the first few months after she was hired, respondent Saucier was traveling quite a bit, dealing with casino gaming and licensing issues, and was not involved in day-to-day operations of the Mars. Ms. Beckett dealt directly with Mr. Anders. However, as time went on, respondent Saucier "took over almost everything except for service marketing and promotion...for the bar and restaurant," which were handled by Mr. Anders.

197. Respondent Saucier did not receive a salary from SMLP or MHC. However, respondent Saucier required Ms. Beckett to pay Washington Trust Bank directly for loan payments owed by respondent Saucier as set forth in Finding 190 above, as well as for other loans, including respondent Saucier's home mortgage. Ms. Beckett made these loan payments according to a schedule provided to her on respondent Saucier's authority. Respondent Saucier stated that the support for these payments was a loan that respondent Saucier had made to SMLP. However, respondent Saucier never provided formal loan documents to Ms. Beckett to substantiate the debt.

198. On August 21, 1996, SMLP obtained $170,000 in financing from Sherron Associates, Inc. (Sherron Associates), in the form of a promissory note.

199. According to Ms. Beckett, the Mars was experiencing significant cash flow problems in the spring and summer of 1996. As a result, Ms. Becket did not make payments to or on behalf of Mr. Anders ($5,000 per month management fee) or respondent Saucier (approximately $11,000 per month loan payments to Washington Trust Bank) during June,

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[31] Ms. Beckett is sometimes referred to in the record as Melissa Gilroy.

July, and August, in order to pay other creditors, as well as payroll and various taxes. Ms. Beckett made the decision to forego payments on the Washington Trust Bank loans in consultation with Mr. Anders. In September of 1996, respondent Saucier learned that interest payments were not being made to Washington Trust Bank. Respondent Saucier instructed Ms. Beckett to make a payment to Washington Trust Bank of $29,982 to bring the loan balance current. In a memorandum to Mr. Anders and respondent Saucier dated September 29, 1996, Ms. Beckett described the impact that payment to Washington Trust Bank on respondent Saucier's behalf would have on other financial obligations of the SMLP, including the following:

> Payroll tax (10,000) due on September 25th will be paid Oct. 14th causing us to pay a 5% penalty. Sales tax (18,000) due on September 25th will be paid Oct. 28th causing us to pay a penalty of 10%. We will not be unable [*sic*] to pay the following payroll tax (10,000) due Oct. 9th, Interest to Empire bond holders (18,000) due Oct. 5th, payroll tax (10,000) due Oct. 23rd, sales tax (18,000) due on Oct. 25th, quarterly gaming tax ((20,000 est.), and quarterly payroll taxes (12,000) due Oct 31st until some time [*sic*] after Nov. 1
>
> Also, I have not included the monthly interest due to ESI for the $312,000 and $125,000 of approximately $5,100. Currently, July, August and September's interest is due totaling $15,300.
>
> [¶]...[¶]
>
> I felt that it was important that you have all the facts so that you will not be surprised by any repercussions due to the above payment.

200. According to Ms. Beckett, respondent Saucier took over more of the operations and more control of the accounting functions after the bank loan payments were not made in the summer of 1996. Respondent Saucier insisted that the loan payments take priority over other expenses and debts of the Mars, and that five percent of the gross proceeds of the Mars' monthly revenues be set aside to make the loan payments. As respondent Saucier began to exert more control over operations and accounting policies, Ms. Beckett and respondent Saucier had several disagreements over accounting and tax issues. In particular, respondent disputed Ms. Beckett's decision to issue an IRS form 1099 to respondent Saucier for the payments made on his behalf to Washington Trust Bank for his personal loan payments, and respondent Saucier refused to have his social security number attached to the 1099. Respondent Saucier also questioned Ms. Beckett's reporting of gaming revenues, and Ms. Beckett felt that respondent was suggesting that she falsify gaming tax filing in order to lower the SMLP's taxable income. Ms. Beckett resigned from her position with the Mars on February 20, 1997. According to Ms. Beckett, during her employment with the Mars, "all payroll expenses made to employees were paid timely, all payroll taxes, sales

taxes and gaming taxes were paid (usually late and with penalties due to the payments made to Mr. Saucier). The Loan interest payments were paid by priority as soon as we were able. Several loan payments were delinquent and therefore we were in default."

201. The SMLP continued to have cash flow problems and sought additional financing. On April 29, 1997, SMLP entered into a loan agreement with Sherron Associates in the amount of $825,000 (Sherron Loan) in the form of a promissory note (Sherron Note). As an inducement to make the loan, SMLP was required to pay, in addition to the sum due under the Sherron Note, a monthly administration fee of $500 to Sherron Associates, on or before the first day of each calendar month, until the Sherron Note was paid in full. The loan agreement further stated:

> 2. Borrower [SML] and its officers, directors, partners, agents, employees, heirs, assigns, and successors in interest may pay operating expenses, including trade accounts and employee salaries from its business operations, and may also pay a management salary to Billy Anders ("Anders") in the sum of $5,000 per month. Robert B. Saucier ("Saucier") shall receive no salary, but shall be entitled to withdraw the sum of $11,000 per month to make his loan payment to Washington Trust, which loan was taken out on behalf of Borrower. **Notwithstanding the foregoing, the monthly payments/withdrawals to Anders and Saucier may not be made until the interest due under the Promissory Note and the Administration Fee provided for herein are paid each month.** Borrower is further prohibited from withdrawing any funds for the benefit of Billy R. Anders, Robert B. Saucier or any other officer or director of Borrower except as set forth in this paragraph until such time as the Loan and all fees to Lender are paid in full.

(Bold added.)

202. The Sherron Note stated, in relevant part, that interest on the note was to be paid at a rate of 12 percent per annum; that a five percent loan fee ($41,250) was to be deducted from the proceeds of the note, along with costs incurred in preparation of the loan; that payments were to be interest only for 12 months, payable by the first day of each month, with a penalty of five percent of the delinquent installment if not paid within 10 days after it is due; and that the unpaid principal balance was due in 12 months (April 29, 1998). The Sherron Note was signed by respondent Saucier as Chairman and CEO of MHC, as the general partner of SMLP; by respondent Saucier as an individual; by Julie Saucer as an individual; and by Billy Anders as an individual. The note provided that "the obligations of the undersigned shall be joint and several."

203. Proceeds from the Sherron Loan were used to pay off the earlier promissory note from Sherron Associates (Finding 198). As compensation for his efforts in securing the Sherron Loan, Mr. Anders received an increase in his MHC shares, to a 33.3 percent interest.

204. In June of 1997, respondent Saucier received a Notice of Default on the Sherron Loan, due to the fact that no loan payments were made by or on behalf of the SMLP. Respondent Saucier initiated an audit of SMLP and MHC, which revealed what he believed to be improprieties by Mr. Anders as the general manager of the SMLP. On July 2, 1997, respondent Saucier caused a Notice of Special Shareholder Meeting and Special Board of Directors Meeting to be served on Mr. Anders. At the July 14, 1997 special meeting of MHC's shareholders, Mr. Anders was removed as a director of MHC. Immediately afterwards, a special meeting of MHC's Board of Directors was held. Mr. Anders was removed as President and COO of MHC, and was fired as general manager of SMLP. Respondent Saucier became President of MHC and general manager of SMLP.

205. The SMLP was in extremely poor financial condition when respondent Saucier took over as general manager, and was losing approximately $70,000 per month. He found unopened certified mail and telephone messages that had not been returned. Creditors and vendors had not been paid, and the SMLP had "withhold and deliver" notices issued against it by various Washington State taxing agencies.

206. Respondent Saucier set up payment plans to repay creditors, and critical vendors were paid cash-on-delivery to ensure that the Mars had essential items. Respondent Saucier also paid taxes that were incurred after June of 1997, but he admitted that he paid late, and did not pay penalties or interest that were imposed as a consequence of the late payments. Furthermore, he was not able to pay taxes owing for the first and second quarter of 1997 that had not been paid while Mr. Anders was the general manager of the SMLP.

207. After respondent Saucier took over as general manager of the SMLP in July of 1997, he resolved the default on the Sherron Loan by bringing current the two missed payments and paying the accrued late fees and penalties due on the Sherron Loan. SMLP timely paid all monthly interest payments thereafter up to the maturity date of the loan.

208. Respondent hired Gary Saul as the casino manager at the Mars in the fall of 1997. Mr. Saul had complete authority over all gaming operations, and he reported directly to respondent Saucier. Respondent Saucier testified that Mr. Saul took over as general manager of SMLP at the end of October 1998. This testimony was not credible. Mr. Saul testified persuasively that he reported to respondent Saucier the entire time he was employed at the Mars; that he was responsible for casino operations; and he was not involved with financial issues pertaining to SMLP, which would have been the responsibility of the general manager.

209. Due to the nature of the "withhold and deliver" notices, SMLP was unable to renew its liquor license with the Washington State Liquor Control Board. In order to renew the liquor license and continue operations, the SMLP sought protection by filing for

bankruptcy reorganization under Chapter 11 of the Bankruptcy Code on November 27, 1997. On November 23, 1998, SMLP's bankruptcy was converted to a Chapter 7 by motion of the U.S. Trustee because of the SMLP's failure to meet its obligations under the Chapter 11 bankruptcy plan. The Mars ceased operation on November 23, 1998. Immediately thereafter, respondent Saucier removed his personal wine collection and other personal belongings (including a VCR, television, and framed posters) from the premises of the Mars.[32]

210. On January 11, 1999, respondent Saucier was designated by the Bankruptcy Court as the individual to appear and perform duties on behalf of the SMLP as the debtor under the Bankruptcy rules.

211. While there were multiple entities involved in the operation of the Mars Hotel and Casino, because of respondent Saucier's majority ownership interest in the Mars Hotel Corporation and its majority ownership interest in the SMLP, at all times relevant herein, respondent Saucier had the power and authority to direct operations of the SMLP and the Mars. Respondent Saucier's claim that he was not involved in the operations of the SMLP until Mr. Anders was fired in July of 1997 is not persuasive. Ms. Beckett testified credibly that respondent Saucier became much more involved at least after September 1996.

(2) The Sherron Judgment

212. The maturity date of the Sherron Loan was May 1, 1998. On the maturity date, the principal balance of $825,000 became due in full, and was unpaid. However, SMLP was in Chapter 11 bankruptcy reorganization, so Sherron Associates was barred from enforcing the Sherron Loan default against the SMLP.

213. On May 14, 1998, Sherron Associates filed a lawsuit against respondent Saucier, Julie Saucier, and Billy Anders for the $825,000 based on their personal guarantee as reflected in the Sherron Loan Agreement. On September 4, 1998, Sherron Associates obtained summary judgment against respondent Saucier, Ms. Saucier, and Mr. Anders (the Sherron Judgment) in the amount of $913,698, broken down as follows: principal amount: $825,000; pre-judgment interest in the total amount of $77,142.42, consisting of interest at the rate of 12 percent per anum from April 1 through April 30, 1998 ($8,250) and at the default rate of 24 percent per anum from May 1 through September 4, 1998 ($68,500); late charges of $2,437.50; attorneys' fees of $8,018.24; and costs of $1,492.24. The court further ordered that the entire judgment amount "shall bear interest at the rate of 12% per annum from the date of this judgment until paid in full." Sherron Associates promptly executed on the judgment and foreclosed on respondent Saucier's assets, including his home and vacant land.

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[32] The suggestion by complainant that respondent Saucier was engaged in improper activity by removing his personal property from the Mars was not supported by the evidence and is rejected.

(3) Violation of Washington State Gambling Laws and Regulations by Mars Hotel and Casino

214. Complainant alleged that the SMLP "did not pay state and local gambling taxes on its operation." The evidence did not establish a failure to pay "state gambling taxes." The SMLP's failure to pay gambling taxes to the City of Spokane is addressed in Findings 227 through 228 below. As set forth in those findings, the SMLP's failure to pay gambling taxes to the City of Spokane violated applicable tax laws.

215. On or about March 1997, the SMLP was granted permission by the Washington State Gambling Commission to participate in a pilot program, the Card Room Enhancement Program (CREP), under which the Mars could offer house-banked forms of gambling. The CREP was initiated in accordance with the State of Washington Administrative Procedure Act (WA-APA). RCW 34.05.313, subdivisions (1) and (2), states in pertinent part:

> **Feasibility Studies – Pilot Projects.**
>
> (1) During the development of a rule or after its adoption, an agency may develop methods for measuring or testing the feasibility of complying with or administering the rule and for identifying simple, efficient, and economical alternatives for achieving the goal of the rule. A pilot project shall include public notice, participation by volunteers who are or will be subject to the rule, high level of involvement from agency management, reasonable completion dates, and the process by which one or more parties may withdraw from the process or the process may be terminated. Volunteers who agreed to test a rule and attempt to meet the requirements of the draft rule, to report periodically to the proposing agency on the extent of their ability to meet the requirements of the draft rule, and to make recommendations for improving the draft rule shall not be obligated to comply fully with the rule being tested nor be subject to any enforcement action or other sanction for failing to comply with the requirement of the draft rule.
>
> (2) An agency conducting a pilot rule project authorized under subsection (1) of this section may waive one or more provisions of agency rules otherwise applicable to participants in such a pilot project if the agency first determined that such waiver is in the public interest and necessary to conduct the project. Such a waiver may only be for a stated period of time, not to exceed the duration of the project.

The testimony of Robert Tull, former chairman of the WSCG, confirmed that the WA-APA "makes it clear that someone who participates in the [pilot] program won't be penalized in certain circumstances....the licensee simply won't be held accountable in the same way as they would be if they were permanent rules."

216. The need for the pilot project arose because the Washington State Legislature had significantly changed the state gambling laws in 1996 and 1997, as a direct result of respondent Saucier's legislative efforts in 1995 through 1997. The purpose of the CREP pilot project was to test internal controls to be used to develop proposed rules being considered by the WSGC. In order to participate in the CREP, SMLP was required to enter into an agreement with the WSGC and submit sample internal controls to be tested. Acceptance into the program was based on approval of the SMLP's proposed internal controls by the WSGC. Compliance with the sample internal controls and proposed rules in the CREP were "trial and error," according to respondent Saucier. Changes to the internal control procedures required approval by WSGC staff.

217. Complainant alleged that "the SMLP, at respondent Saucier's direction, did not implement minimum internal controls for its gambling operation as required for its participation in the CREP." This allegation was not established by a preponderance of the evidence. On October 28, 1998, the WSGC issued a Notice of Removal from Pilot Study and Opportunity for Review before the Commission (Notice of Removal), seeking SMLP's removal from the CREP based on SMLP's alleged failure to comply with its internal controls as approved by the WSGC. SMLP filed an appeal and requested review of the Notice of Removal by the WSGC. Less than a month later, on November 23, 1998, the Mars closed as the result of the Chapter 7 bankruptcy proceedings, and no further action was taken on the Notice of Removal.[33]

218. At hearing, respondent Saucier was asked to review the Notice of Removal and was asked if the factual allegations were true. Respondent Saucier stated, "If you are asking if all the allegations are true, the answer is no." When asked, "Were some of them true?" respondent Saucier replied, "Some of them may have been true, yes." Respondent Saucier was not asked further questions about the Notice of Removal, or asked specifically about which allegations "may have been true."

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[33] On January 21, 2000, the WSGC issued a "Notice of Administrative Charges and Opportunity for and Adjudicative Proceeding in the Matter of the Revocation of the License to Conduct Gambling Activities of Galaxy Gaming [GGCORP]." That matter referenced the fact that respondent Saucier" was affiliated with the former Mars Hotel & Casino in Spokane, which had been licensed to conduct gambling activities from January 1, 1996, through December 31, 1998," and that "[i]n 1998 the Mars Hotel and Casino was being processed for removal from the Card Room Enhancement Program (CREP) for repeated internal control violations. Pending completion of the Chapter 11 bankruptcy, action against the licensee was halted." On July 18, 2001, the parties entered into an Agreed Order which addressed the license status of GGCORP, and in which respondent Saucier/GGCORP made no admissions.

219. Lawrence Yokoyama, a former Special Agent for the WSGC, testified that he compiled the information contained in the Notice of Removal and may have drafted the Notice of Removal. However, Mr. Yokoyama did not personally conduct any of the inspections that were summarized the Notice of Removal, but merely reviewed reports prepared by other staff. His testimony was insufficient to establish the underlying allegations.

220. Complainant alleged that the SMLP violated Washington State gambling laws and regulations as a result of the issuance of the Notice of Removal. However, as was previously noted, the SMLP filed an appeal of the Notice of Removal, and final action was not taken by the WSGC.

221. On February 9, 1998, SMLP received two Violation Warning Notices issued by Liquor Control Agent Rafael Cerrillo of the Washington State Liquor Control Board for failure to timely allow law enforcement employees to enter its surveillance room on two occasions in January of 1998. As stated in the Warning Notices, on each occasion, the manager on duty, Rod McKenzie, advised the officers that "he had specific orders from his employer, Robert Saucier, that law enforcement offers were not allowed in the camera room."

222. At all times pertinent in January 1998, SMLP's internal controls approved by the WSGC stated: "Gaming Agents with proper identification are permitted *immediate access* to the Surveillance Room. Other law enforcement officers, *after having obtained permission* from the Casino Manager or an Executive Officer of the Mars Hotel Corporation, may also be permitted in the Surveillance Room." (Italics added.) Respondent Saucier was out of town and was unavailable on January 24 and 27, 1998, when the incidents occurred. Law enforcement personnel were allowed access to the surveillance room after the Mars casino manager, Gary Saul, was contacted. After these incidents, respondent Saucier was informed that the internal controls violated the law by limiting access of law enforcement personnel to the surveillance room, and the internal controls were amended to remove the restriction.

223. Under all of the circumstances set forth above, the evidence was insufficient that the SMLP, at respondent Saucier's direction, did not timely allow law enforcement employees to enter its surveillance room, since employees were acting in compliance with the approved internal controls at the time of the incidents.

224. There was no evidence to substantiate complainant's allegation that the SMLP, at respondent Saucier's direction, under-reported its gaming revenues to the Washington State Gambling Commission. As was noted in Finding 200 above, Ms. Beckett felt that respondent Saucier questioned her reporting of gaming revenues, but there is no evidence that respondent Saucier or anyone else associated with SMLP engaged in false reporting of gaming revenues.

(4) Poor or Dishonest Accounting Practices by Mars Hotel and Casino

225. Respondent Saucer engaged in the following questionable business practices in connection with the Mars Hotel and Casino:

A. Respondent Saucier refused to provide documentation to the controller of the SMLP (Melissa Beckett) supporting an ostensible loan made by respondent Saucier to the SMLP, which was being repaid to respondent Saucier on a monthly basis through direct payments to Washington Trust Bank. Respondent Saucier's testimony that all loans were documented and that the paperwork was in the SMLP office was not corroborated by any loan documents and was not credible. In contrast, Ms. Beckett sent a memorandum to Mr. Anders and respondent Saucier on November 27, 1996, in which she stated that she "would like to have a discussion with both of you on the $370,000 due Rob." Linda Cade, an attorney for Sherron Associates, was "questioning both the legitimacy of the note, where the funds came from and what did it buy etc....Also, although in form the note is unsecured and in last position, in practice it is treated as if it is in first position as it gets paid before all other items." Ms. Beckett suggested that they "have a note and subordination agreement drawn up that would address these issues." The evidence was persuasive that Ms. Beckett did not receive any written information about the loan prior to her leaving her employment with the Mars in February of 2007.

B. Respondent Saucier refused to provide his social security number to the controller (Ms. Beckett) for purposes of the issuance of IRS form 1099 for monies received from the SMLP/paid directly to Washington Trust Bank on his behalf. In the absence of documentation substantiating the loan, and given the fact that the loan was in the name of respondent Saucier personally, Ms. Beckett's interpretation of tax law was reasonable. Respondent contended that Ms. Beckett had access to his social security number and that he did not refuse to provide it. However, he instructed Ms. Beckett to leave the social security number on the 1099 blank, and essentially refused to allow her to submit the form 1099 with his social security number on it.

226. In complainant's closing brief, complainant conceded that the evidence did not establish that respondent Saucier removed money from the drop boxes at the gaming tables at the Mars, or that he left IOUs in the drop boxes and was inconsistent in repaying IOUs. As a factor in aggravation, complainant contended that respondent Saucier "took frequent cash payouts – with no limitation from the casino cage – from the financially distressed Mars Hotel and Casino." However, the evidence established that the cashier cage at the Mars operated in accordance with the internal controls approved by the WSGC as part of SMLP's participation in the CREP. Section 9.30.100 of the Mars Hotel & Casino Written System of Internal Controls set forth the general requirements for cage operation, and stated in part:

> 9.30.110 IMPREST BANK SYSTEM. The Cage utilizes a "zero-sum" imprest bank system. This means that the total sum of negotiable instruments, including but not limited to, cash, chips, markers, "Fill Slips," "Credit Slips," "Cash Bank Slips,"

"Paid-In Slips," "Paid-Out Slips," Guest's personal and payroll checks and winning pull tabs remains constant from the beginning of the day through to the end. At any time during the business day, an authorized supervisor, Internal Auditor or Gaming Agent may ask that the Cage bank be reconciled and the total should equal the day's beginning balance.

9.30.120 CENTRAL BANK. The Cage operates as the central bank for all business operations during normal business hours. The Cage provides all employees requiring cash banks with their opening bank and provides cash for the ATM machine. The Cage also acts as the depository for employee banks when the employee no longer requires a cash bank.

Certain pre-approved personnel at the Mars were authorized to deposit or withdraw money from the Cage using paid-in and paid-out slips. A list of authorized persons and the maximum monetary amounts they could withdraw from the Cage was kept and maintained as part of the Mars internal controls. Respondent Saucier was included on the list of persons authorized to receive cash from the Cage using the paid-out procedure. Respondent Saucier testified that Cage withdrawals served a petty cash function for the Mars, and that deposits into and withdrawals out of the Cage were made according to the internal controls of the Mars. As the "CEO," respondent Saucier's authorization for cash paid-out was "unlimited." In each case when cash was paid out to respondent Saucier, the appropriate paperwork was submitted. Ms. Beckett mistakenly referred to this paperwork as "IOUs." She admitted that all "IOUs" taken out by respondent Saucier were repaid. The evidence did not establish any impropriety by respondent Saucier in his use of the paid-out/paid-in procedures at the Mars.

(5) Failure to Pay Gambling Taxes to City of Spokane

227. The SMLP failed to pay gambling taxes owed to the City of Spokane. According to Spokane Deputy City Attorney Michael Piccolo, at the time SMLP filed for Chapter 11 bankruptcy protection, it owed $110,000 in gambling taxes for the second, third, and fourth quarters of 1997. The Mars continued to operate in 1998 while in bankruptcy, and the SMLP owed gambling taxes for the first, second, and third quarters of 1998 in the amount of $110,000, for a total of $220,000 in unpaid taxes and penalties. After the bankruptcy was converted to a Chapter 7, the assets were liquidated and the City of Spokane did not collect any of the back due taxes.

228. Mr. Piccolo confirmed that, after the SMLP filed Chapter 11 bankruptcy, respondent Saucier made efforts to pay some gambling taxes in the first and second quarters of 1998. However, the taxes were paid late, so penalties were accrued. Mr. Piccolo's testimony that taxes were owed for the second quarter of 1997 supported the assertion by respondent Saucier that Mr. Anders did not make tax payments in 1997 while he was still the general manager of the SMLP. However, the nonpayment of gambling taxes continued after

respondent Saucier assumed the duties of general manager of the SMLP in the summer of 1997.

(6) Failure to Pay Federal Insurance Contributions Act Taxes

229. The SMLP failed to pay Federal Insurance Contributions Act (FICA) taxes on behalf of employees of the SMLP. Respondent Saucier testified that, after he took over as general manager of the SMLP in July of 1997, he became aware of the fact that reports had not been submitted and FICA taxes had not been paid in 1997, and possibly going back to 1996. Respondent Saucier caused reports to be prepared and payment made for the current FICA taxes after July 1997, but he did not pay back taxes owed and did not pay interest and penalties.

230. The SMLP's inability to make tax payments, as set forth in Findings 227 through 229, was attributable, at least in part, to respondent Saucier's decision to give priority to the payment of his personal loans to Washington Trust Bank.

(7) Avoidance of the Sherron Judgment

231. In interviews with BGC personnel conducting respondents' suitability investigation, respondent Saucier traced his reluctance to have, or provide to the BGC, a specific residential address for himself, to his fear that he might be forced to pay an approximate $1.5 million personal debt incurred by him to Sherron Associates in trying to keep the SMLP solvent (Finding 107).

232. Respondent candidly admitted to investigators that he lived his "unusual lifestyle," i.e. claimed to have no residential address, in order to avoid legal proceedings that would require him to pay the Sherron Judgment: "I know that seems unusual but I...I also hope that we can also stress the unusual set of circumstances that, that I am living under. I literally am in fear that a process server is going to walk up to me and certainly with papers and then I have to go through a deposition again to try to satisfy this judgment."

233. Although respondent Saucier expressed the intention to build up his Galaxy Gaming business and when it had some financial value, negotiate a settlement with Sherron Associates, he did not do so until after the administrative hearing commenced in this matter. Respondent's claim that he could have filed personal bankruptcy to extinguish the debt, but considered it a "matter of honor" to negotiate a settlement, is outweighed by the extreme measures he took over a period of more than 10 years to avoid the judgment.

234. On October 25, 2011, respondent Saucier and GGINC entered into a Settlement Agreement and Mutual Release with Sherron Associates and its president, Ed Springman, to resolve various lawsuits related to the Sherron Judgment. GGINC agreed to pay Sherron Associates $150,000 in 12 monthly payments, to be completed by October 1, 2012. Respondent Saucier agreed to personally guarantee these payments. Respondent Saucier agreed to pay Sherron Associates $350,000 by June 1, 2012, or to pay $375,000 by

November 1, 2012, if payment was not made by June 1, 2012. GGINC agreed to guarantee the payment of $375,000 by November 15, 2012, if respondent Saucier failed to pay as agreed by November 1, 2012. The Settlement Agreement and Mutual Release was executed by the parties on October 31, 2011, and the Sherron Judgment was deemed satisfied and extinguished as of that date.

Failure to Obtain Business License for GGLLC

235. From 2001 through January of 2004, during which time respondent Saucier was in control of GGCA both directly and through GGLLC, which managed GGCA, GGLLC did not have a business license as required by the City of Las Vegas. GGLLC was formed on September 27, 2000. As of July 9, 2003, the address of GGLLC on file with the Nevada Secretary of State was 3170 W. Sahara Avenue, #D-21, Las Vegas, Nevada.

236. On January 1, 2004, respondent Saucier, as the manager of GGLLC, entered into a rental agreement with Patrick and Milica Flanagan to rent "that certain home at 2213 Plaza del Robles for residential purposes only, on a month-to-month basis beginning on the 1st day of January, 2004," at a rent of $2,000 per month. Paragraph 1 of the Rental Agreement states, in pertinent part, that "Tenant hereby covenants and agrees as follows: 1. Not to let or sublet the whole or any part of said premises....Tenant shall not use premises for any commercial enterprise...." (Underlining in original.)

237. Respondent Saucier sought a business license for GGLLC in January of 2004, after the December 23, 2003 interview with BGC investigators. On January 13, 2004, the city of Las Vegas , Department of Finance and Business Services, issued business license No. B20-00716-A-114996 to Galaxy Gaming, LLC. The business location was listed as "2213 Plaza del Robles," and the "Principal(s)" were listed as "Saucier, Robert B., Mgr/100%."

238. Respondent conceded that GGLLC did not have a business license as required, but attributed this to an "oversight by staff." Complainant contends that, when considered in the light of respondents' nondisclosure of the 2213 Plaza del Robles address on the principal and business applications, there was a continuing pattern of conduct to conceal this address as the actual location where business operations were taking place, and was part of a consistent pattern of nondisclosure and noncompliance with applicable laws and regulations. Respondent Saucier testified about the business location as follows:

MR. SAUCIER: The biggest problems with Plaza Del Robles was that it was a residential town house in a guard gated community and even though there was what I will call a home-based business there, we didn't want to have an impact on the guard gated community, meaning we did not want to get deliveries there, UPS deliveries or Fed Ex deliveries. We didn't want to get mail there.

> We didn't want—the people that work there like I mentioned Judith Richardson or Joanie Cross, they would park their cars outside of the complex and walk through the gate and come in that way because we did not want a number of cars to be around that address. It was a residential area, and we were wanting to maintain it as a residential appearance.

MR. WILLIAMS: But it was the physical location of the business?

MR. SAUCIER: It's where people worked, myself included.

239. Respondents contend that respondent Saucier disclosed the Plaza del Robles address to BGC investigators in the fall of 2003, and that Agent Villones and Investigator Ferko visited and inspected the premises in late September 2003. Respondents deny that there was an attempt to "hide" the operations of GGLLC at the Plaza del Robles location. However, in the 2004 Supplemental Business Application, GGCA gave a post office box as its business address, and respondents gave the following answer to the question "Main Office (if different than above):"

> The Applicant [GGCA] has no physical offices. Its manager, Galaxy Gaming, LLC is leasing temporary space inside a residential townhouse, located at 213 Plaza del Robles, Las Vegas, Nevada 89102. The townhouse is located in the guard-gated residential community known as Spanish Oaks. Due to the residential nature of the community, and the restrictions imposed by its association, this address is normally confidential.

240. After the lack of a business license was discussed with BGC investigators in December 23, 2003, respondent Saucier instructed Outsource to obtain the business license. The City of Las Vegas issued the license without fine or penalty.

241. By failing to obtain a business license, GGLLC operated unlawfully in Nevada for several years. Respondent Saucier, as the manager of GGLCC, did not take adequate steps to assure that GGLLC was operating in compliance with city business requirements. Respondent Saucier's conduct created or enhanced the dangers of unsuitable or illegal practices in the carrying on of the business arrangements incidental to controlled gambling.

Conduct Related to Oregon Licensing Investigation

(1) Background

242. While the BGC's investigation of respondents was pending in California, respondent Saucier, GGGLLC, and GGOR had a pending application for suitability as a

tribal vendor in the State of Oregon (GGOR application).[34] The GGOR application was reviewed and investigated by the OSP. The investigation was initially assigned to OSP detective Frank Moro in December of 2003. In May of 2004, Detective Moro resigned from the OSP, and the investigation was assigned to OSP detective Scott J. Eberz on May 10, 2004. On June 13, 2004, Detectives Eberz and Rick Narvaez traveled to Sacramento in order to meet with Agent Villones and Investigator Ferko, and to copy all records and investigation materials compiled by the BGC in its investigation of respondents. Review and copying took place from June 14 through 16, 2004, and Detectives Eberz and Narvaez returned to Oregon on June 17, 2004. The OSP investigation concluded at the end of August 2004, with a recommended finding that GGLLC, GGOR, and respondent Saucier were not suitable to conduct business with compacted tribes in Oregon. Respondent Saucier, GGLLC and GGOR appealed the suitability denial. In the course of the appeal, respondent Saucier's Oregon attorney, Robert Weaver, of the law firm of Garvey Schubert Barer, made a request for discovery of the "Galaxy Gaming investigative file." Detective Eberz complied with the request, at the direction of his supervisors, by duplicating 7,604 pages of materials and shipping them to Mr. Weaver in the spring of 2005. The OSP sent bills to Mr. Weaver in the amount of $1,176.53, for the cost of photocopying and shipping the documents, and $2,160 for the time spent by Detective Eberz in making and sending the copies (24 billable hours at $90 per hour). The documents sent to Mr. Weaver included all of the documents photocopied by Detective Eberz from the BCG investigation of respondents in California. Respondent Saucier obtained copies of these documents from Mr. Weaver in May or June of 2005.

243. Detective Eberz was the subject of an internal affairs investigation by the OSP that was initiated in July of 2005 for reasons unrelated to these proceedings. During the course of the investigation, Detective Eberz complained to the investigators that he believed the OSP Tribal Gaming Section had inappropriately billed the tribes for costs associated with the GGOR investigation that should have been billed to GGOR; that his supervisor, Lt. Bathke, had retaliated against Detective Eberz for reporting inappropriate billing to the tribes; and that Lt. Bathke had threatened Detective Eberz and others. Detective Eberz sent an email to Oregon Attorney General Hardy Myers in which he stated, in part, that he had provided the GGOR vendor background investigation report to Randy Sitton, a representative of the National Indian Gaming Commission (NIGC), during a meeting he attended to learn about job opportunities with the federal government, as an example of his investigative skills and work. Detective Eberz also informally complained about the billing procedure involving the GGOR investigation to Mr. Sitton.

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[34] GGLLC filed an earlier vendor application in Oregon in 2001. The Oregon State Police Tribal Gaming Section (OSP) initiated an investigation on December 18, 2001. According to a letter from OSP Sergeant Charles K. Burdick to Agent Villones, dated June 5, 2003, the investigation was discontinued as of July 25, 2002, because GGLLC failed to respond to supplemental disclosure requests from the OSP.

(2) Attempt to Obtain Confidential Information Regarding OSP Investigation/Official Misconduct

244. In July or August of 2005, Detective Eberz made an anonymous telephone call to respondents' attorney, Robert Tabor. According to Mr. Tabor, the caller indicated that he believed the OSP had been dealing unfairly with GGOR. A week or two later, Detective Eberz contacted Mr. Tabor again, and identified himself. Detective Eberz provided his telephone number to Mr. Tabor. Detective Eberz told Mr. Tabor that GGOR was being treated differently than similarly situated companies that were undergoing licensing or suitability investigations by the OSP. Thereafter, Mr. Tabor called Detective Eberz and asked if he "would like to get a cup of coffee and talk about his concerns." Mr. Tabor told Detective Eberz that his purpose in meeting him was that he wanted to see what information Detective Eberz had that might be of assistance to his clients. A meeting was arranged for September 9, 2005, in Salem, Oregon.

245. On August 26, 2005, Detective Eberz initiated a tort claim notice against the OSP alleging race discrimination and whistle-blower retaliation.

246. On September 6, 2005, OSP Office of Professional Standards Inspector Jeff Hershman interviewed Detective Eberz concerning allegations regarding improper use of his work computer, fraudulent billing (i.e. billing for investigative work while instead engaging in improper use of his computer), and releasing confidential information (a copy of the GGOR vendor background investigation report to NIGC).

247. On September 9, 2005, Detective Eberz met with Mr. Tabor and respondent Saucier at the Pancake House in Salem (the Pancake House meeting). Mr. Tabor recorded most of the meeting, and a transcript of the recording was subsequently prepared. Respondent Saucier brought some paperwork to the meeting concerning the OSP investigation, which he had obtained from his Oregon attorneys, including information from the BGC investigation of respondents which Detective Eberz had copied as part of the OSP investigation.

248. The OSP did not authorize Detective Eberz to meet with Mr. Tabor and/or respondent Saucier, particularly in light of the fact that the OSP Tribal Gaming Section's denial of suitability to respondent Saucier and GGOR was under appeal. Furthermore, given the initial information provided by Detective Eberz to Mr. Tabor about alleged improprieties in the OSP investigation, Mr. Tabor and respondent Saucier knew or should have known that the meeting was not authorized by the OSP.

249. The primary focus of the discussion at the Pancake House meeting was the OSP investigation of GGOR and respondent Saucier and the manner in which other vendors were treated differently than GGOR. Detective Eberz brought a number of documents to the Pancake House meeting, including copies of the draft vendor initial investigation report for

GGOR, as well as vendor background investigation reports for Shuffle Master, Inc. (Shuffle Master), a direct competitor of GGOR, and Global Surveillance Associates, Inc (Global Surveillance). On each page of these reports, there was a warning that stated:

> This report is prepared pursuant to appropriate Sections of the Compact between the State of Oregon and the Tribes in Oregon and is intended for the use of the Tribes and the State in connection with their rights and responsibilities under the Compact and applicable law. The report may contain or may refer to confidential or proprietary information. It does not purport to give a full, accurate or comprehensive report upon the character, ability or fitness of the persons or organizations mentioned. It may not be relied on by any person or entity except the State and the Tribes and buy them only for the purposes of the appropriate Sections of the Compact. The report may not be further distributed in whole or in part without the express consent of the Oregon State Police or the subject of the investigation.

250. The evidence did not establish that Mr. Tabor or respondent Saucier requested information about other vendor applications or that either solicited information about the operations of any vendor/competitor. The Pancake House meeting transcript does not indicate that respondent Saucier reviewed a copy of either the Global Surveillance or Shuffle Master report.

251. In the course of the Pancake House meeting, Mr. Tabor and respondent Saucier elicited, or attempted to elicit from Detective Eberz, confidential information regarding the investigation of the GGOR application, and the investigations of the applications of other tribal vendors in the State of Oregon that were unrelated to the GGOR application, to the extent that those vendors were treated more favorably than GGOR by the OSP during the investigation process. However, in light of the fact that Detective Eberz had made allegations of improper conduct by the OSP in the course of the GGOR application investigation, it was not established that this specific conduct created or enhanced the dangers of unsuitable, unfair or illegal practices, methods, and/or activities in the conduct of controlled gambling. Respondent Saucier and his attorney were entitled to follow up on the unsolicited contact by Detective Eberz to determine whether the OSP had engaged in improper conduct. This includes questions about alleged conduct by attorneys with the Oregon Department of Justice who met with OSP personnel and Detective Eberz and purportedly told Detective Eberz to sign the GGOR report that the attorneys had rewritten in a manner unfavorable to GGOR. Complainant's contention that this was an unethical attempt to obtain "attorney-client information as between the Oregon Department of Justice and the Oregon State Police" was not persuasive.

(3) Receipt of Confidential Documents

252. During the Pancake House meeting, Detective Eberz stated several times that the information he was providing to respondent Saucier and Mr. Tabor were "public records." At the conclusion of the meeting, respondent Saucier, Mr. Tabor, and Detective Eberz made arrangements for Detective Eberz to send additional information held by the OSP Tribal Gaming Section to Mr. Tabor as the attorney for respondent Saucier. Based upon these arrangements, on or about September 14, 2005, without authorization from the OSP, Detective Eberz sent to Robert Tabor confidential documents, including an OSP Tribal Gaming procedure manual for tribal vendor investigations for the OSP and investigatory reports regarding the suitability of other tribal vendors unrelated to GGOR application, namely the Shuffle Master and Global Surveillance vendor background investigation reports. Mr. Tabor's law firm paid the costs of delivery of these confidential materials received from Detective Eberz.

253. Neither the OSP nor the affected vendors (Global Surveillance and Shuffle Master) authorized the distribution of the vendor background investigation reports. Although Detective Eberz asserted that all of the documents were public records, Mr. Tabor recognized that the some of the information in the Shuffle Master and Global Surveillance vendor background investigation reports was proprietary confidential information. After these reports were mailed to Mr. Tabor, he did not provide copies of the reports to respondent Saucier.

254. Neither Mr. Tabor nor Mr. Saucier solicited copies of the Shuffle Master or Global Surveillance reports from Detective Eberz. Rather, as reflected in the Pancake House meeting transcript, respondent Saucier and Mr. Tabor sought copies of documents that pertained to the GGOR investigation:

SAUCIER: Besides the documents you brought with you and you mentioned that you had copies of billings. What records do you have in your possession?

EBERZ: I have a partial copy of your billing file, or I guess they call it an accounting file. I am not sure what they call it. I have all of my billings that I transmitted to my supervisor. I have all of my notebooks, well most of my notebooks, well they did keep one. I have a copy of the Shuffle Master report, I have a copy of the letters and I think the Shuffle Master report in my (illegible) finding. I have a copy of the Global Surveillance Associates report, and the cover letter that goes with that. I have, I don't have your report. They ordered me to send that back to them. I think that is it connected to your case, I think that is all I have.

SAUCIER: Okay. I know that this is a lot to ask for you, but would you [*sic*] and I know Robert asked you to do the copies of the billing. Would you mind making copies of the other things that pertain to us?

EBERZ: Yeah, sure.

SAUCIER: Pertain to Galaxy? And what I would like to do is let me leave with you some money today, because I know it is going to cost you money to get the copies made, or whatever, and postage, that sort of stuff. So I would like to do that.

EBERZ: Just to cover the cost of the copies. I don't want any money, personally, I don't want any money.[35]

255. With respect to the OSP Tribal Gaming procedure manual, Detective Eberz represented to respondent Saucier and Mr. Tabor that the procedure manual was a public document:

TABOR: Would it be possible for you without risking your current position, of course, would it be possible for you to determine or locate any policies or procedures that would dictate how reports have to be concluded?

EBERZ: Actually, my new supervisor, the first thing he did was put together a "P and P" (Policies and Procedures) manual for my unit. And so, I imagine the approval process is dictated in that manual. And I have it at my house.

[¶]...[¶]

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[35] Complainant introduced into evidence an email from Frank Moro to Detective Eberz, dated September 8, 2005, in which Mr. Moro stated, in part: "I agree, we should be together when we meet Saucier and his boy, as you and I both know they could be using us for there [*sic*] own benefit. I suggest we make sure we have them take us to a high priced restaurant and record all business related conversation....[Saucier] will no doubt ask us if we are willing to testify against the "white brotherhood" [OSP] and if we are going to bring the great White Brotherhood down, then we should be well compensated for our efforts...." Complainant contended that this email "appears to anticipate the solicitation of a bribe or the understanding that a bribe would be forthcoming," and that it demonstrated "a corruption of the suitability process." Mr. Moro was not called as a witness by either side, despite diligent efforts to locate and subpoena him. The email was uncorroborated hearsay; consequently, no weight is given to the email, and complainant's arguments are not persuasive.

TABOR: And has that P and P manual formally been adopted?

EBERZ: That happened soon after Jim Reagan took office in the unit.

[¶]...[¶]

TABOR: So late winter, early spring those P and P's would have been formally adopted of 05?

[¶]...[¶]

TABOR: Would it be possible, and permissible for you to provide us with a copy of that P and P?

EBERZ: I will, because it is a public record. Everything in our unit, every utterance, you know, is public record. My neighbor could walk in off the street and ask for a copy, we would have to give it to him.

256. Complainant contended that Mr. Tabor recognized that the procedure manual was a confidential document as reflected in an email exchange with Detective Eberz:

---Original Message---[36]

Subject: [SPAM] a question

From: Eberz Family ...

Date: Sun, October 08, 2006 10:53 pm

To: rtabor@maloneytabor.com

RT,

Just wondering if OSP learned where GG got the Tribal Gaming Unit procedure manual. Let me know. They are prying and want to know how you know so much.

Ain't mysteries grand? Peace, SEberz

[36] The Order of this email string has been reversed so that the first email in time is the first in order.

* * * * * * * * * * *

Scott,

No, OSP does not know we got it from you. In fact, they can do no more than suspect we do have it.

Any change in status with your OSP case? And I hope the job search has either been successful or is headed that way.

Best regards,

Robert S. Tabor, Esq....

Complainant's contention is not persuasive. Rather than a reference to the confidentiality of the procedure manual, this exchange relates to the "unsanctioned" nature of the Pancake House meeting, which resulted from Detective Eberz's "whistleblower" activities. Considering all the facts and circumstances, it was not established that respondent Saucier and/or his attorney solicited the unauthorized release of a confidential document by requesting and receiving a copy of the procedure manual.

257. With respect to information from GGOR's investigation file, since the file documents had been previously reproduced and provided to respondent Saucier and his Oregon attorneys, it was not established that Detective Eberz provided "confidential" information to Mr. Tabor when he mailed documents from the GGOR investigation file to Mr. Tabor after the Pancake House meeting. Nor was it established that Mr. Tabor or respondent Saucier solicited confidential information by obtaining these materials, which included documents from the BGC investigation of respondents that were part of the GGOR file.

258. It was not established that the receipt of the documents mailed to Mr. Tabor, under the circumstances set forth above, was conduct by respondent Saucier that created or enhanced the dangers of unsuitable, unfair or illegal practices, methods, and/or activities in the conduct of controlled gambling.

(4) Attempt to Obtain Confidential Information Regarding BGC's Investigation in California

259. As was set forth above, in the course of his investigation of the GGOR application, Detective Eberz obtained numerous copies of investigatory documents from the BGC and had confidential communications with the BGC's investigators regarding the suitability investigation of respondents Saucier and GGCA. Respondents deny that respondent Saucier and/or Mr. Tabor attempted to elicit confidential information from Detective Eberz regarding the investigation of GGCA by the BGC's investigators. However, the Pancake House meeting transcript demonstrates that respondent Saucier and Mr. Tabor

did not confine their inquiry to the "whistleblowing" about GGOR's alleged mistreatment by the OSP, but sought confidential information regarding Detective Eberz's communications with BGC investigators as well as other investigations, including other jurisdictions investigating GG entities and the FBI's investigation of respondent Saucier. Neither the BGC nor any other jurisdiction or entity authorized Detective Eberz to divulge confidential information concerning their investigations.

For example, Mr. Tabor asked Detective Eberz the following questions concerning his contacts with Agent Villones and Investigator Ferko during his trip to Sacramento in 2004: "And what did you learn from Ms. Villones?" "Can you tell me about what it was that you spoke about with Miss Villones, when you did talk to her?" "Did she tell you when she reached the conclusion that Mr. Saucier was not qualified to do business in California?" "Did she give you a basis for that conclusion?" "So on that first day did she ever orally give you the specific reason why she felt that Mr. Saucier was unsuitable?" "On your first day in California, or at any point while you were in California on this June 2004 trip did you meet with an investigator or agent by the name of Theresa Ferko?" "And did Miss Ferko ever give you, or express to you her opinion of Mr. Saucier and Galaxy Gaming?" "When Miss Ferko told you she would send you her report when she was done with it, did she ever send you that?" "What about after you came back to Oregon from California, how much between July or June and July of 04 when you went down to California and the end of your investigation, how much time did you spend communicating either on the phone or by e-mail or letter with anybody from California?" "Where [*sic*] there any examples of any questions that California had that they were unable to resolve?"

260. Respondent Saucier reviewed a copy of Agent Villones' report with Detective Eberz, and asked specifically whether Detective Eberz interviewed various individuals whose statements were contained in the BGC investigation materials, including Ken Seltzer, Robin King, Melissa Beckett, Billy Anders, Tom Armstrong, Leland McEuen, Rolf Tangold, Jake Miller, Spokane City Attorney Michael Piccolo, U.S. Attorney James Connelly, and Jim Atkins. Concerning Mr. Seltzer, respondent Saucier asked:

SAUCIER:	Yeah, okay. Seltzer was asked why he resigned as Saucier's Accountant, he made the following statement: "for the things he wanted me to do, I just couldn't do them."
EBERZ:	Right.
SAUCIER:	What does that mean to you, or what did that mean to you when?...
EBERZ:	When I spoke with Mr. Seltzer I thought that Seltzer, yes, that when he said that, I thought that he might have been asked to do something that either wasn't by GAAP, general [*sic*] accepted

accounting principles, or that he was asked to do something he didn't agree with. And so, I asked him after he said that, "can I include that statement in my report," and I read it back to him, and he said "yeah." He didn't elaborate, he didn't want to elaborate.

261. Regarding Detective Eberz's interactions with Tom Armstrong, respondent Saucier asked:

SAUCIER: Tom Armstrong with (illegible) [Sherron] Associates? Apparently you did some correspondence with him?

EBERZ: Yeah, I did talk; it was by phone and by mail. What page is he on?

[¶]...[¶]

SAUCIER: And it just mentioned, it said that you had attempted to contact Armstrong with [fax]; I saw in the exhibits there were some [faxes] that went back and forth. I am just curious of any recollection of any telephone calls that you may have had with him, and typically when you have a telephone call like that, are you taking notes, and those notes are in your notebook?

EBERZ: Well what I learned to do early on in this case, is to request letters because there's so much information, I didn't want to get mixed up, and I asked him because I did get a letter because I think I wrote him here, he gave me a letter that he wrote to her, Ms. Velonis [*sic*] down in California about a judgment or something. And I read the letter, I recollect reading the letter and then calling him, or actually faxing him and asking him if he could send over a similar letter, or a letter that contains similar information, which he eventually did.

262. The Pancake House meeting transcript also reflected that Mr. Tabor and respondent Saucier asked Detective Eberz about conversations with FBI agent Leland McEuen and Assistant U.S. Attorney Rolf Tangold relating to a possible indictment of respondent Saucier or whether there was a grand jury investigation, and what factored into the decision not to prosecute respondent Saucier. With respect to investigations by

jurisdictions other than Oregon or California, Mr. Tabor and respondent Saucier inquired as follows:

TABOR: When was the last time that you spoke with either, with anybody from the California Division Of Gambling Control?

EBERZ: Oh man, I think I might have gotten and e-mail from Lucie Villones maybe once this year, just to see how we were progressing with our case, and I told her the same thing I told her the last contact I had with her, "you know, I gave all my stuff to the DOJ and I haven't heard a thing," and I said "I don't know what the hold-up is, I have no idea what they are doing with it, I don't know what they are hoping to gain by delaying, it is out of my hands."

TABOR: Have you had, you did mention that you had in the California [*sic*], and spoken with the California DOJ regarding Galaxy, did you communicate with any other State jurisdictions regarding Galaxy Gaming, State or Canadian jurisdictions?

EBERZ: I conferred with British Columbia and that was at the prompting of Bob Sunstrum. Bob Sunstrum, I think he sent me an e-mail, I might have that e-mail that said, he gave me the name of the person to contact in BC and he said "you may want to call these guys and told them what you have learned," I am paraphrasing, "it is not worth the work," "you may want to call these guys and let them know what's going on with Oregon's investigation." Which I did and they came down in a photocopied everything.

[¶]...[¶]

SAUCIER: Okay. I want to follow-up on a question that Robert asked... we understand you obviously, you met and spoke with on the phone on a number of occasions with California, you then stated that British Columbia came to your offices to copy some documents, and that you had some discussions with them? Other than California and

British Columbia, had you had any contact with any other agencies regarding Galaxy?

EBERZ: Oh, Las Vegas, the Nevada gaming control Board, which I learned from them, that you don't need a license, they license the game. That report, I could tell you who I talked to, it would be under a subheading of other agency contacts.

263. Detective Eberz also told respondent Saucier that he had the following brief exchange with the WSGC: "Yeah, I had to rely on just the existing documentation that had been previously selected by the guys before me. I called up there and I think they said they couldn't talk about it. Because I have the distinct recollection of a twelve second conversation with someone up there. 'I am calling about this vendor, I am doing background investigation of Galaxy Gaming,' "'oh we can't talk about that, I'm sorry.' And that was it."

264. The purpose of these inquiries was to obtain confidential information about the suitability investigations of GG entities in California and other jurisdictions, as well as the FBI investigation of respondent Saucier. Respondents failed to establish a legitimate use for this information that was unrelated to the GGOR investigation and allegations of OSP misconduct.

265. The confidential information regarding the BGC's suitability investigation of Galaxy Gaming of California that was elicited by respondent Saucier and Robert Tabor from Detective Eberz was elicited without the BGC's knowledge or consent. These activities create or enhance the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of controlled gambling.

(5) Indictment of Detective Eberz

266. On or about June 2, 2008, in Marion County, Oregon, Detective Eberz was criminally indicted for offenses based upon alleged official misconduct in his unauthorized release of the confidential information and documents to respondent Saucier and Robert Tabor as set forth above and the unauthorized release of confidential information concerning the GGOR to the NIGC. On June 8, 2009, Detective Eberz was convicted, on his plea of guilty to Count 3 of the indictment, official misconduct with respect to the unauthorized release of confidential information to the NIGC, a misdemeanor. All counts pertaining to Detective Eberz' contacts with respondent Saucier and Mr. Tabor were dismissed. Detective Eberz was placed on probation for 12 months and was ordered to pay a $67 fine. He was also ordered to perform 80 hours of community service, suspended on condition of successful completion of probation.

267. Complainant alleged that the indictment and conviction of Detective Eberz illustrate the "corruption of the suitability process," in that the Pancake House meeting and subsequent transmission of documents to Mr. Tabor led to the indictment. However, given

that Detective Eberz's plea was to a count unrelated to respondent Saucier or GGOR, this contention is without merit. The criminal indictment of Detective Eberz does not constitute evidence of misconduct related to respondent Saucier and GGOR. Thus, it did not, in and of itself, create or enhance the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of controlled gambling.

Fourth Cause for Denial of Application – Lack of good character, honesty and integrity

Respondent Saucier's Attempt to Obtain Confidential Information about BGC's Suitability Investigation

268. Complainant alleged that respondent Saucier knowingly attempted to obtain confidential information about the BGC's investigation of his suitability from Detective Eberz "for purposes of subverting the credibility of the [BGC's] investigators and report, and/or to gain an unfair advantage in defending against any negative finding that the [BGC] might make regarding respondents." Complainant noted that the professional standards complaint against the BGC investigators in this matter was filed by respondents shortly after the Pancake House meeting in September of 2005. However, there was no direct connection established between the information in the professional standards complaint and information disclosed by Detective Eberz to respondent Saucier, particularly in light of the fact that respondent Saucier had received documents pertaining to the BGC investigation through the legal discovery process. Nevertheless, as set forth in Findings 259 through 261, and 264 to 265, respondent Saucier and his attorney, Robert Tabor, knowingly attempted to obtain potentially confidential information about the BGC's investigation of respondents' suitability from OSP Detective Scott Eberz. Respondent Saucier's conduct demonstrates that he is not a person of integrity, in that the inquiries cannot be justified by any legitimate purpose.[37]

Avoidance of the Sherron Judgment

269. For more than 10 years, respondent Saucier took ongoing steps to avoid payment of an approximately $1.5 million debt (the Sherron Judgment) arising from respondent Saucier's operation of the Mars Hotel and Casino. As has been previously stated (Findings 231 through 234), respondent Saucier's rationale for avoiding payment of the judgment, namely, that he wanted to avoid bankruptcy and build up his businesses so that he could afford to negotiate a settlement, was not persuasive to justify his actions, and led to questionable business activities, such as concealing his home address and the actual business location of GGLLC and the GG affiliates in a gated residential community. In his December 2003 interview with BGC investigators, respondent Saucier acknowledged that he dissolved GGCORP and adopted a complex business structure of limited liability companies in order to avoid the Sherron Judgment:

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[37] While Detective Eberz was indicted in the State of Oregon for his actions in relation to respondent Saucier, those charges were dismissed as part of a plea agreement. The charges were not adjudicated, and remain allegations only.

> Well, when I had stock in the C Corporation, when I was... I was deposed after the...after the judgment was granted. I was deposed and I want to say, again, it was '98-'99 I don't know exactly when. I was deposed by the creditor's attorney and they asked me to list the various assets that I had and I disclosed the stock that I had in Galaxy Gaming Corporation. At the time, the Corporation had no revenue coming in so it was of no value to them. But as I saw that the...that the company had some viability and revenue started coming in, I discovered that the stock that I had in the Corporation I could end up losing to the creditor and so essentially the company that I was working to build would be lost and the creditor would end up taking over the company so my Counsel advised that the way to go was a limited liability company because according to him, they could not acquire my ownership share in a limited liability company like they could with stock in a C Corporation.

Respondent Saucier also explained in detail his efforts to avoid service of papers to depose him in connection with the Sherron Judgment that led him to falsify information pertaining to his residence address on the Principal Application (Findings 102 through 114). His conduct in connection with the Sherron Judgment demonstrated a lack of honesty and integrity.

Reputation Evidence

270. Complainant cited the testimony of three individuals who had experience with respondent Saucier's activities in connection with the Mars Hotel and Casino to demonstrate that respondent Saucier lacked good character, based upon his negative reputation in the gaming industry in Washington.

271. Melissa Beckett, a former CPA who worked as the controller for the Mars Hotel and Casino, testified at length concerning respondent Saucier's business practices in connection with the SMLP, including his refusal to provide her with documentation to substantiate a loan made to the SMLP; his placement of an unsecured debt to himself ahead of secured debts and insisting on payment on a loan in his name directly to the bank; and his attempts to stop her from issuing him an IRS form 1099 for monies paid on his behalf to Washington Trust Bank by the SMLP. These incidents formed the basis of her belief that respondent Saucier "[would] push the limits," "had no respect for authority and regulatory bodies," and "did not have respect for rules and regulations." Ms. Beckett's concerns and frustrations were well documented in contemporaneous documents, and were persuasive evidence of respondent's lack of integrity.

272. Michael Piccolo was an Assistant City Attorney for the City of Spokane during the period that the Mars Hotel and Casino was operated by respondent Saucier. Mr.

Piccolo became involved with the SMLP in an effort to collect more than $200,000 in gambling taxes owed by the SMLP to the City of Spokane. At hearing, Mr. Piccolo acknowledged that he did not know how the SMLP got into financial trouble or who was responsible for the nonpayment of gambling taxes at various times in 1997 and 1998. He dealt with respondent Saucier because respondent Saucier was responsible for the SMLP after it filed for Chapter 11 bankruptcy protection. Mr. Piccolo's opinion concerning respondent Saucier's honesty and integrity was based in part on conflicting answers respondent Saucier gave in bankruptcy court when asked about the SMLP's ability to make current gambling tax payments. In his opinion, respondent Saucier "came as close to lying as a person could" in bankruptcy court.

273. Billy Anders was respondent Saucier's main partner in the Mars Hotel and Casino. Mr. Anders was the general manager of the SMLP until June of 1997, and he and respondent Saucier had a falling out after Mr. Anders allowed the Sherron Loan to go into default in June of 1997. Given the animosity and conflicts that existed between respondent Saucier and Mr. Anders, and considering the evidence that both individuals contributed substantially to the financial demise of the Mars Hotel and Casino, the opinions expressed by Mr. Anders concerning respondent Saucier's reputation and business practices were accorded no weight.

Respondents' Evidence of Suitability

274. To establish a prima facie case of suitability, Business and Professions Code section 19856, subdivision (c), states that "[i]n reviewing an application for any license, the commission shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the gambling operations with respect to which the license will be issued are free from criminal and dishonest elements and would be conducted honestly."

275. Former Director Appelsmith (the complainant in this proceeding) testified that the suitability process is "all about whether or not an applicant will have a negative impact on the State of California." Respondents contend that "there can be no greater proof of whether or not an individual or a company is a threat to the State of California than the actual track record of that company operating in the State." Respondents argue that they are suitable to do business in California because respondent Saucier and GGCA (and its successor, GGINC) have been consistently doing business in California since approximately 1999, without incident, a fact that former Director Appelsmith testified "carries significant weight."

276. As evidence of suitability, respondents provided evidence that respondent Saucier has undergone background investigations in other jurisdictions and has been found suitable in at least 50 percent of the 67 jurisdictions and tribes that have licensed GGINC, the successor to GGLLC.

277. Respondents relied on the testimony of a number of witnesses to establish that respondent Saucier is a person of integrity in the gaming industry, including the following:

A. William O'Hara: Mr. O'Hara has been employed by GGINC since February of 2008, and is in charge of the company's compliance issues. He previously worked as a Director for Shuffle Master, a major gaming supply company. Mr. O'Hara talked to respondent Saucier and others for about six months before accepting employment with GGINC, and he believed respondent Saucier was "honest and forthright" throughout the hiring process. He regarded respondent Saucier as a good, kind and compassionate man, with a high level of credibility.

B. Andrew Zimmerman: Mr. Zimmerman testified in this matter on June 21, 2011. At that time, he was the Chief Financial Officer of GGINC.[38] He described respondent Saucier as "intelligent, creative, calm, [and] open minded." He gave respondent Saucier relatively high marks for "credibility," and stated that respondent Saucier has never asked him to do anything illegal or unethical.

C. Robert Pietrosanto: Mr. Pietrosanto is a senior sales specialist for GGINC, and has worked with respondent Saucier since October 2006. Mr. Pietrosanto met respondent Saucier in 1997, when he was employed at Shuffle Master, and the Mars purchased products from Shuffle Master through Mr. Pietrosanto. In his business dealings with respondent Saucier, Mr. Pietrosanto has found him to be an honest man who has a good reputation in the gaming industry. His decision to work for GGINC was based in part on his positive assessment of respondent Saucier's character.

D. Gary Saul: Mr. Saul is the president of Rockland Ridge Corporation, which contracts with GGINC and previously contracted with GGLLC. Mr. Saul worked as the casino manager of the Mars in 1998 and had daily contact with respondent Saucier. He has continued to work with respondent Saucier's companies since that time. He described respondent Saucier as a reputable businessman, whose character was "hard-working, honest, diligent [and] caring." He also stated that respondent Saucier had respect for gaming regulators, including the WSGC.

E. James Williams: Mr. Williams was the director of security and surveillance at the Mars. He gave respondent Saucier a high rating for honesty and integrity, and noted that respondent Saucier instructed him to follow the law and internal controls "to the T" when enforcing security at the Mars. If the opportunity arose, he would work for respondent Saucier in the future without hesitation.

F. Frank Miller: Mr. Miller is an attorney in Washington who spent 15 years with the WSGC, and was the executive director of the WSGC from 1990 to September 1997.

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[38]On February 8, 2012, the GGINC Board of Directors accepted the resignation of Mr. Zimmerman. Respondent Saucier was appointed to serve as interim Chief Financial Officer, interim Secretary, and interim Treasurer.

He described respondent Saucier as a person of honesty and integrity. Mr. Miller later represented respondents in their efforts to obtain a finding of suitability in California. Mr. Miller noted that respondent Saucier and various GG entities had been found qualified to do business in many jurisdictions outside California. Regarding his specific knowledge of gaming regulatory practice in Washington, Mr. Miller opined that, "If [the WSGC] had evidence of wrongdoing [against respondent Saucier or GGINC] they would bring an action to suspend or take action on the license, no doubt in my mind."

G. Robert Tull: Mr. Tull is a former Commissioner and Chairman of the WSGC, where he worked from 1985 to June 1996. After he left the WSGC, he represented the SMLP in the spring or summer of 1997. He stated that he knew of respondent Saucier "slightly" in his last year on the WSGC, and there were no sanctions or actions against SMLP while he was on the WSGC. He stated that the Mars was implementing innovative gaming and was used as a model by the WSGC.

Mr. Tull currently represents GGINC in the State of Washington. In that capacity, Mr. Tull and respondent Saucier have regular access to the Commission staff. Mr. Tull testified that, in his opinion, the WSGC and its staff had a favorable opinion of respondent Saucier.

H. Carrie Tellefson: Ms. Tellefson is an attorney and lobbyist who worked for the WSGC from 1993 to 1998. She believed respondent Saucier to be an honest individual and a person of good moral character based on her interactions with him in her work for the WSGC. She knew of no illegal acts committed by respondent Saucier in the State of Washington.

I. Joan B. Cross: Ms. Cross performed client support services to GGLLC through her company, JNR Enterprises, LLC, from the summer of 2002 through the summer of 2005. She testified that respondent Saucier was "wonderful" to work with, and he never asked her to do anything illegal or unethical. She considered respondent Saucier to be a person of honesty and integrity.

J. Joseph Purcell: Mr. Purcell's company, Primetime Player Management, LLC (Primetime) was a subcontractor providing sales support for GGCA. Mr. Purcell did not testify at the administrative hearing, but the transcript of his November 13, 2003 interview with Agent Villones was received in evidence for all purposes. As of the date of that interview, Mr. Purcell had known respondent Saucier for about two years. He stated that he had great respect for respondent Saucier and gave his reputation a high rating for character, stability, and standing. He had no knowledge of any unlawful activity engaged in by respondent Saucier.

K. Robin King: Ms. King performed clerical functions for the benefit of GGLLC and the GG affiliates through her company, Essential Essence Enterprises, LLC. She described respondent Saucier as a "good guy" and very personable.

278. Complainant pointed to the following testimony and evidence to counter respondents' evidence of suitability:

A. Robin King: Although Ms. King stated that she no knowledge of respondent Saucier engaging in illegal activity, she was highly critical of his business methods, calling him "quirky," and stating that she "wouldn't go into business with the guy but it's not because he's doing something that's wrong. It's because of the way he approaches his life." She described respondent's evasiveness with gaming regulators as "poor business practice."

Ms. King was responsible for assisting respondent Saucier in preparing license applications in various jurisdictions, and she described the experience as follows:

> And, with me filling out these applications and stuff, I was getting really frustrated because you guys would call me and say what, well, about this and what about that. And all I can really release to you is exactly what I released to you on the application so it, you know, just really put me in a really...I didn't like being put in that position so reputation-wise I would say...I can't give you a scale but I can say that he goes about his business life so strangely that it really does put other people, I *[sic]* like, in a really tough position and I don't think that's fair. You know, especially as a consultant I mean, when you're not even an employee and you're having...I mean, that's...you know, I had trouble with that. I had a lot of trouble with that, being perfectly honest

B. John Maloney: Mr. Maloney, along with Mr. Tabor, took over representation of respondents in early 2004. A witness called on respondents' behalf, Mr. Maloney was critical of respondent Saucier's attitude and lack of diligence in filling out the 2003 Principal and Business Applications. Mr. Maloney described the applications as "a train wreck," "bad," and "needed help." He further stated, "if I was a regulator, I probably would have said Rob take this garbage and come back [when] you are serious. I'm serious. It was just not a good application."

C. WSGC Notice of Administrative Charges – March 12, 2012: In light of respondents' arguments that their track record in California justified issuance of a finding suitability, and their reliance on the testimony of former WSGC Commissioner Robert Tull and Executive Director Frank Miller concerning respondent Saucier's suitability to conduct business in California, official notice was taken of the fact that, on March 12, 2012, the WSGC issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding in Case No. CR 2010-00909, "In the Matter of the Suspension or Revocation of the License to Conduct Gambling Activities of Galaxy Gaming, Inc., Las Vegas, Nevada, Licensee." The Notice of Administrative Charges alleges, in summary:

> Between 2000 and 2011, the licensee made numerous false and misleading statements in its renewal and other applications, and documents submitted to the Commission. The licensee failed to disclose material facts such as new substantial interest holders, Oregon State's finding of suitability, denial of licenses by three California tribes, marriages, divorces, and residential addresses of primary owner, Robert Saucier. In addition, the licensee failed to timely disclose the state of California's pending denial of the licensee's application (final disposition of the California matter has not been reached as of March 12, 2012).

As of the date of this Proposed Decision, the WSGC matter has not gone to hearing. Therefore, the charges have not been adjudicated, and remain allegations only. However, the filing of these charges is deemed significant in light of Mr. Miller's testimony that the WSGC would pursue action against respondent Saucier and GGINC if it had evidence of misconduct (Finding 277.F).

Discussion

279. As set forth in the Factual Findings, respondent Saucier was evasive and, in some instances, intentionally dishonest and misleading in his responses to questions on the Principal and Business Applications submitted to the BGC for a finding of suitability to do business as a vendor with California tribes. This evasiveness and subterfuge arose out of his efforts to avoid payment of the Sherron Judgment, which led to his adoption of a convoluted business structure that was designed to insulate assets and limit disclosures to regulators. This created a situation where respondents claimed to be technically accurate in their responses to certain application questions while giving functionally deceptive answers. This conduct impeded the investigation into respondents' suitability. The 2004 Supplemental Applications, while providing more information, were submitted only after investigators determined that additional information existed and/or that respondent Saucier had not provided full and accurate information; as Chief Appelsmith noted, the investigators had to "drag it [information] out of him [respondent Saucier]." In a highly regulated industry such as gaming, the failure to be forthcoming with relevant information was inexcusable.

280. Respondent Saucier's problems can be traced back to his activities in the gaming industry in Washington and the operation of the Mars Hotel and Casino. Respondent Saucier blamed others for the financial problems of the SMLP, and failed to recognize how his own actions, by insisting that payments be made to Washington Trust Bank ahead of other creditors, contributed to the financial demise of the Mars. And respondent Saucier's attempts to obtain confidential information about the BGC's investigation through his contact with Detective Eberz demonstrated a lack of integrity.

281. The evidence, taken as a whole, painted a portrait of a man who believed that the rules that applied to others did not apply to him. He believed he could give cursory or incomplete answers to investigators and blame others for noncompliance.

282. Respondents pointed to the fact that GGLLC, GGCA, and GGINC have operated in California since 1999 without incident, and that a denial of a finding of suitability would cause financial harm to respondents in light of their existing business relationships. However, respondents have benefitted from the fact that the application and appeal process has been prolonged in large part due to their own actions. Respondents' evidence of suitability (Findings 274 through 277) was outweighed by the evidence demonstrating a lack of suitability. Under all of the facts and circumstances, denial of respondents' applications for a finding of suitability is necessary to protect the public.

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. 4 CCR section 12050 sets forth the process for appeal after the BGC issues a recommendation to deny a finding suitability. 4 CCR section 12050, subdivision (b), states in part that, if the applicant requests an evidentiary hearing, the Executive Director of the Gambling Control Commission shall set the matter for hearing 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). Section 12050, subdivision (b)(3), states, in part, that "the burden of proof rests with applicant to demonstrate why a license, permit, or finding of suitability should be issued or not conditioned....A representative of the [BGC] shall present the reasons why the license, permit, or finding of suitability should not be granted or should be granted with conditions imposed...."

2. Business and Professions Code section 19805, subdivision (j), defines "Finding of suitability" as "a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19857, and that the person would not be disqualified from holding a state gambling license on any of the grounds specified in Section 19859."

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

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

[¶]...[¶]

4. Business and Professions Code section 19859 states, in relevant part:

The commission shall deny a license to any applicant who is disqualified for any of the following reasons:

(a) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.

(b) Failure of the applicant to provide information, documentation, and assurances required by this chapter or requested by the director, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

[¶]...[¶]

5. Business and Professions Code section 19864 provides, in relevant part, that, "(a) Application for a state license or other commission action shall be made on forms furnished by the commission"; and "(b) The application for a gambling license shall include...(6) Any other information and details the commission may require in order to discharge its duty properly."

6. Business and Professions Code section 19865 states:

The department shall furnish to the applicant supplemental forms, which the applicant shall complete and file with the department. These supplemental forms shall require, but shall not be limited to requiring, complete information and details with respect to the applicant's personal history, habits, character, criminal record, business activities, financial affairs, and business associates, covering at least a 10-year period immediately preceding the date of filing of the application. Each applicant shall submit two sets of fingerprints, using "live scan" or other prevailing, accepted technology, or on forms provided by the department. The department may submit one fingerprint card to the United States Federal Bureau of Investigation.

7. Business and Professions Code section 19866 states:

> An applicant for licensing or for any approval or consent required by this chapter, shall make full and true disclosure of all information to the department and the commission as necessary to carry out the policies of this state relating to licensing, registration, and control of gambling.

Respondents' Challenges to Jurisdiction are Without Merit

Applicable Tribal Compact Provisions[39]

8. Section 2.11 of the Compact defines "Gaming Resources" as "any goods or services provided or used in connection with Class III Gaming Activities." Section 2.12 defines "Gaming Resource Supplier" as "any person or entity who, directly or indirectly, manufactures, distributes, supplies, vends, leases, or otherwise purveys Gaming Resources to the Gaming Operation or Gaming Facility." Section 2.18 defines "State Gaming Agency" as "the entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code)," namely, the Gambling Control Commission and the BGC.

9. Section 6.4 of the Compact addresses licensing requirements and procedures. Section 6.4.1 states, in pertinent part:

> 6.4.1. Summary of Licensing Principles. All persons in any way connected with the Gaming Operation or Facility who are required to be licensed or to submit to a background investigation under IGRA, and **any others required to be licensed under this Gaming Compact, including but not limited to, all Gaming Employees and Gaming Resource Suppliers ... must be licensed by the Tribal Gaming Agency.** The parties intend that the licensing process provided for in this Gaming Compact shall involve joint cooperation between the Tribal Gaming Agency and the State Gaming Agency, as more particularly described herein.

(Bold added.)

10. Section 6.4.3 provides, in pertinent part:

> 6.4.3. Suitability Standard Regarding Gaming Licenses. (a) In reviewing an application for a gaming license, and in addition to

[39] All references are to the tribal-state compact between the State of California and the Tule River Indian Tribe (Compact).

any standards set forth in the Tribal Gaming Ordinance, the Tribal Gaming Agency shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Tribe's Gaming Operations, or tribal government gaming generally, are free from criminal and dishonest elements and would be conducted honestly. A license may not be issued unless, based on all information and documents submitted, the Tribal Gaming Agency is satisfied that the applicant is all of the following, in addition to any other criteria in IGRA or the Tribal Gaming Ordinance:

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

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

(c) A person who is in all other respects qualified to be licensed as provided in this Gaming Compact, IGRA, the Tribal Gaming Ordinance, and any other criteria adopted by the Tribal Gaming Agency or the Tribe....

11. Section 6.4.5 states, in pertinent part:

6.4.5. Gaming Resource Supplier. Any Gaming Resource Supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least twenty-five thousand dollars ($25,000) in Gaming Resources in any 12-month period, or who has received at least twenty-five thousand dollars ($25,000) in any consecutive 12-month period with in the 24-month period immediately preceding application, shall be licensed by the Tribal Gaming Agency prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any such Gaming Resources to or in connection with the Tribe's Operation or Facility.... The Tribe shall not enter into, or continue to make payments pursuant to, any contract or agreement for the provision of Gaming Resources with any person whose application to the State Gaming Agency for a determination of suitability has been denied or has expired without renewal. Any agreement between the Tribe and a Gaming Resource Supplier

shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the bona fide repayment of all outstanding sums (exclusive of interest) owed as of, or payment for services or materials received up to, the date of termination, upon revocation or non-renewal of the Supplier's license by the Tribal Gaming Agency based on a determination of unsuitability by the State Gaming Agency.

12. Section 6.4.7 provides that "[e]ach applicant for a tribal gaming license shall submit the completed application along with the required information and an application fee, if required to the Tribal Gaming Agency in accordance with the rules and regulations of that agency." Section 6.4.7 describes the minimum information requirements under the IGRA for primary management officials, key employees, and business entities, and states: "**nothing herein precludes the Tribe or Tribal Gaming Agency from requiring more stringent licensing requirements.**" (Bold added.)

13. Section 6.4.8 states, in pertinent part:

> 6.4.8. Background Investigations of Applicants. The Tribal Gaming Agency shall conduct or cause to be conducted all necessary background investigations reasonably required to determine that the applicant is qualified for a gaming license under the standards set forth in Section 6.4.3, and to fulfill all requirements for licensing under IGRA, the Tribal Gaming Ordinance, and this Gaming Compact. The Tribal Gaming Agency shall not issue other than a temporary license until a determination is made that those qualifications have been met. In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or the Tribal Gaming Ordinance, the Tribal Gaming Agency may contract with the State Gaming Agency for the conduct background investigations, may rely on a state certification of non-objection previously issued under a gaming compact involving another tribe, or may rely on a State gaming license previously issued to the applicant, to fulfill some or all of the Tribal Gaming Agency's background investigation obligations....

14. Section 6.5.6 pertains to the state certification process and provides, in pertinent part:

> (a) **Upon receipt of a completed license application and a determination by the Tribal Gaming Agency that it intends to issue the earlier of a temporary or permanent license, the**

Tribal Gaming Agency shall transmit to the State Gaming Agency a notice of intent to license the applicant, together with all of the following: (i) a copy of all tribal license application materials and information received by the Tribal Gaming Agency from the applicant; (ii) an original set of fingerprint cards; (iii) a current photograph; and (iv) except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Tribe Gaming Agency. **Except for an applicant for licensing as a non-key Gaming Employee, as defined by agreement between the Tribal Gaming Agency and the State Gaming Agency, the Tribal Gaming Agency shall require the applicant also to file an application with the State Gaming Agency, prior to issuance of the temporary or permanent tribal gaming license, for a determination of suitability for licensure under the California Gambling Control Act.** Investigation and disposition of that application shall be governed entirely by state law, and the State Gaming Agency shall determine whether the applicant would be found suitable for licensure in a gambling establishment subject to that Agency's jurisdiction. Additional information may be required by the State Gaming Agency to assist it in its background investigation, provided that such State Gaming Agency requirement shall be no greater than that which may be required of applicants for a State gaming license in connection with nontribal gaming activities and at a similar level of participation or employment. A determination of suitability is valid for the term of the tribal license held by the applicant, and the Tribal Gaming Agency shall require a licensee to apply for a renewal of a determination of suitability at such time as the licensee applies for renewal of a tribal gaming license....

(b) Background Investigations of Applicants. **Upon receipt of completed license application information from the Tribal Gaming Agency, the State Gaming Agency may conduct a background investigation pursuant to state law to determine whether the applicant would be suitable to be licensed for association with the gambling establishment subject to the jurisdiction of the State Gaming Agency.** If further investigation is required to supplement the investigation conducted by the Tribal Gaming Agency, the applicant will be required to pay the statutory application fee charged by the State Gaming Agency pursuant to California Business and Professions Code section 19941(a), but any deposit requested by

> the State Gaming Agency pursuant to section 19855 of that Code shall take into account reports of the background investigation already conducted by the Tribal Gaming Agency and the NIGC, if any.... The State Gaming Agency and Tribal Gaming Agency shall cooperate in sharing as much background information as possible, both to maximize investigative efficiency and thoroughness, and to minimize investigative costs. Upon completion of the necessary background investigation or other verification of suitability, the State Gaming Agency shall issue a notice to the Tribal Gaming Agency certifying that the State has determined that the applicant would be suitable, or that the applicant would be unsuitable, for licensure in a gambling establishment subject to the jurisdiction of the State Gaming Agency and, if unsuitable, stating the reasons therefor.
>
> [¶]...[¶]

(Bold added.)

15. Section 7.3 states:

> 7.3. Assistance by State Gaming Agency. The Tribe may request the assistance of the State Gaming Agency whenever it reasonably appears that such assistance may be necessary to carry out the purposes described in Section 7.1, or otherwise to protect public health, safety, or welfare. If requested by the Tribal or Tribal Gaming Agency, the State Gaming Agency shall provide requested services to ensure proper compliance with this Gaming Compact. The State shall be reimbursed for its actual and reasonable costs of that assistance, if the assistance required expenditure of extraordinary costs.

Discussion

16. Respondents' argue that, under section 6.5.6, they were not obligated to file applications for a finding of suitability with the BGC because Tule River did not determine that it intended to issue a vendor license to respondents. This argument is not persuasive. Section 7.3 authorized Tule River to request the assistance of the State Gaming Agency (i.e., the BGC) with its investigation of respondents' vendor license applications. In the course of providing this assistance, the BGC investigators determined that GGLLC and/or GGCA had been licensed by other Tribal Gaming Agencies. Under section 6.5.6, those tribes were required to transmit to the BGC a notice of intent to license GGLLC and/or GGCA, together with the tribal license application materials and other information. Those Tribal Gaming Agencies were further obliged to "require the applicant [GGLLC and/or GGCA] also to file

an application with the State Gaming Agency, prior to issuance of the temporary or permanent tribal gaming license, for a determination of suitability for licensure under the California Gambling Control Act...." Under these circumstances, it was reasonable and appropriate for the BGC to "summons" respondents and require them to file an application for a finding of suitability under state law, regardless of the status of the Tule River investigation.

17. Respondents contend that complainant lacks jurisdiction over respondents because the State Gaming Agency does not require a finding of suitability for vendors to California card clubs, except as set forth in Business and Professions Code section 19853, subdivision (a)(1), which states:

> (a) The commission, by regulation or order, may require that the following persons register with the commission, apply for a finding of suitability as defined in subdivision (i) of 19805, or apply for a gambling license:
>
> (1) Any person who furnishes any services or any property to a gambling enterprise under any arrangement whereby that person receives payments based on earnings, profits, or receipts from controlled gambling.

18. Respondents contend that GGCA would not be required to apply for a license or finding of suitability for a nontribal cardroom because GGCA did not receive payments based on earnings, profits, or receipts from controlled gambling based on its intellectual property licensing agreements. Their argument is not persuasive. While former BGC Director Robert Lytle testified that nontribal gaming vendors are not required to seek a finding of suitability, it is not clear that GGCCA would not be deemed to have received payments based on "receipts" from controlled gambling. In any event, the requirements of Business and Professions Code section 19853 are irrelevant to this proceeding. Once the gaming resource supplier is required to file an application for determination of suitability with the State Gaming Agency (BGC), section 6.5.6, subdivision (a), requires the State Gaming Agency (BGC and the Commission) to determine "whether the applicant would be found suitable for licensure in a gambling establishment subject to that Agency's jurisdiction" and "disposition of that application shall be governed entirely by state law." The "state law" relevant to this proceeding is the standard for finding of suitability found in the Gambling Control Act, i.e., Business and Professions Code sections 19857 and 19859.

19. Respondents further contend that since they would not be subject to a requirement of licensure or finding of suitability under Business and Professions Code section 19853, subdivision (a)(1), then the BGC would not be able to conduct further investigation, apart from information provided by the Tribal Gaming Agency, because the State Gaming Agency requirement for additional information "shall be no greater than that which may be required of applicants for a State gaming license in connection with nontribal gaming activities and at a similar level of participation or employment." Respondents'

argument that Business and Professions Code section 19853 limits the scope of the background investigation to be conducted pursuant to section 6.5.6 of the Compact is equally without merit. The Compact specifically includes gaming resource suppliers as "others required to be licensed" under the Compact (§ 6.4.1), and the BGC is required to conduct its investigation to determine suitability for licensure under the Gambling Control Act (i.e., Business and Professions Code sections 19857 and 19859) when a Tribal Gaming Agency intends to or issues a license to a gaming resource supplier.

20. Harlan Goodson was the director of the BGC at the time Agent Villones began her investigation of respondents. Mr. Goodson interpreted section 6.4.5 of the Compact to mean that if a gaming resource supplier provided at least $25,000 in gaming resources in a 12-month period to California tribes, in the aggregate, then the gaming resource supplier was required to be licensed by the various tribal gaming agencies prior to the further sale, lease, or distribution of gaming resources to the tribe, and was required to file an application with the BGC for a determination of suitability under State law.

After Robert Lytle became director of the BGC, the agency's interpretation of the $25,000 requirement changed, and an individual tribe was no longer required to license a gaming resource supplier who provided less than $25,000 in gaming resources to the tribe in a 12-month period. Consequently, if the gaming resource supplier was not required to be licensed by the Tribal Gaming Authority, the gaming resource supplier would not be subject to the state certification process.

21. Respondents contend that they were prejudiced by the BGC's prior erroneous interpretation of the $25,000 threshold because, had they been aware of the revised interpretation, GGCA would have kept annual licensing revenues with each tribe below $25,000 and thereby avoided tribal licensing requirements under the Compact. Under those circumstances, respondents would not have been obligated to seek a determination of suitability from the State Gaming Agency.

22. Respondents noted that, in correspondence and interviews with BGC investigators in 2002 and 2003, respondent Saucier and his attorneys asserted their belief that the $25,000 threshold was per tribe, but were unsuccessful in convincing regulators of their position. Thus, respondents contend they were required to seek licensure with individual tribes and, ultimately, to file the applications for determination of suitability with the BGC, in order to conduct business in California. However, respondents' contention that GGCA would not have exceeded the $25,000 threshold to avoid the necessity of applying for a determination of suitability is conjecture. If respondents were intent on preserving their legal position, they could have structured their business affairs to not exceed the $25,000 per tribe limit. However, GGCA received licensing revenues from Blue Lake Casino (average $2,100 per month) and Rolling Hills Casino (average $2,125 per month) between July and December 2002, making it reasonably foreseeable that GGCA would provide more than $25,000 per year in gaming resources to Blue Lake Casino and Rolling Hills Casino. Furthermore, in the supplemental information submitted to the BGC by respondents on September 12, 2003, respondents listed $2,495 per month in revenues from Rolling Hills

Casino. Thus, GGCA was properly "deemed likely to provide at least twenty-five thousand dollars ($25,000) in Gaming Resources in any 12-month period" for purposes of the licensure requirement of section 6.4.5 of the Compact. (Findings 79 through 81.)

23. Respondents' claim of prejudice/lack of jurisdiction is not persuasive, and is based on speculation. They assert that the tribes required them to be licensed because of the BGC's erroneous interpretation of the $25,000 threshold requirement in section 6.4.5 of the Compact. Respondents' argument assumes that the tribes would not otherwise have required gaming resource suppliers to be licensed. Respondents ignore the fact that section 6.4.7 states that, "nothing herein precludes the Tribe or Tribal Gaming Agency from requiring more stringent licensing requirements." Thus, the tribes were free to require licensure of gaming resource suppliers who did not reach the $25,000 per tribe threshold. And, as respondents' counsel, Robert Tabor, noted during the April 28, 2004 meeting between respondent Saucier and BGC investigators: "And the fact of the matter is Rob [respondent Saucier] that while the [BGC] may have three years ago told or had a position that it was in the aggregate [and] has communicated that to various Tribes, once the Tribe has licensed you, whether it's because what the Division has said or not, once the Tribe has licensed you for whatever reason, the [BGC] can look at you."

24. Based on the foregoing, respondents' jurisdictional challenges are denied.

Respondents' Laches Defense is Without Merit

25. Laches is an equitable defense which requires both unreasonable delay and prejudice resulting from that delay. The party asserting and seeking to benefit from the laches bar bears the burden of proof on these factors. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 815; citing *Mt. San Antonio Community College District v. Public Employment Relations Board* (1989) 210 Cal.App.3d 178, 188.) (*Fahmy*). Before the issue of prejudice can be reached, respondents must prove that the delay was unreasonable.

26. Respondents first contend that the BGC violated Business and Professions Code section 19868 by failing to act upon the applications within 180 days, or to provide an estimated date on which the investigation would be concluded. This contention was not persuasive. Business and Professions Code section 19868, subdivision (a), states:

> (a) Within a reasonable time after the filing of an application and any supplemental information the division may require, and the deposit of any fee required pursuant to Section 19867, the division shall commence its investigation of the applicant and, for that purpose, may conduct any proceedings it deems necessary. To the extent practicable, all applications shall be acted upon within 180 calendar days of the date of submission of a completed application. If an investigation has not been concluded within 180 days after the date of submission of a completed application, the division shall inform the applicant in

> writing of the status of the investigation and shall also provide the applicant with an estimated date on which the investigation may reasonably be expected to be concluded.

27. In this case, the applications were first filed with the BGC on March 10, 2003; 180 days from the filing of the initial applications was September 6, 2003. At that time, respondents still had not submitted financial information, and had not made records available for review and copying. Nor had respondent Saucier made himself available for an in-person interview. Given the piecemeal manner in which respondents provided information to the BGC during the entirety of the investigation, the failure of BGC investigators to provide an estimated date on which the investigation could reasonably be expected to be concluded was excusable.

28. Furthermore, the court in *Fahmy* rejected the proposition that an administrative delay can be unreasonable as a matter of law in licensing matters, stating that "[t]he purpose of a license revocation proceeding is to protect the public from incompetent practitioners by eliminating those individuals from the roster of state-licensed professionals." (*Fahmy, supra*, 38 Cal. App 4th at p. 817). As the court noted:

> Even inordinately long delays in taking administrative action have been judicially allowed. (See *NLRB v. Ironworkers* (1984) 466 U.S. 720, where the delay in taking administrative action lasted from 1978 until 1982, and related to wrongdoing which occurred from 1972 onward.) There is without a doubt a realization on the part of the Legislature that administrative agencies such as the Medical Board take action for the public welfare rather than for their own financial gain, and should not be hampered by time limits in the execution of their duty to take protective remedial action. That is particularly true in the case of the Medical Board, which is charged with protecting the lives and health of the citizenry from incompetent or grossly negligent medical practitioners. It is apparent that the Legislature wishes to have the Medical Board protect California patients from physicians who are incapable of providing appropriate services in life or death situations, regardless of how long it takes the Medical Board to act.

(*Id.*, at pp. 816-817.)

29. Gaming in California is a highly regulated industry, and the Commission's interest in assuring that individuals who are licensed or found suitable to do business with California tribes are of good character, honesty and integrity, and whose prior activities, reputation and habits do not pose a threat to the public interest, is analogous to the public protection goals of the California Medical Board as articulated in *Fahmy*.

30. As noted by respondents, the time to be considered in determining whether an unreasonable delay has occurred is the period from the time the agency first learned or should have learned of the facts on which the action is based to the time the administrative action was formally commenced. (*Gore v. Board of Medical Quality Assurance* (1980) 110 Cal.App.3d 184, 193.)

31. Respondents contend that "it is evident that the [BGC] was aware as early as November 18, 2002, that it intended to deny [CCGA's] application," based on the comments of Agent Villones on the fax cover sheet to Investigator McClure. This contention is not persuasive. While it is true that the BGC first became aware of information pertaining to the suitability of respondents to conduct business with California tribes in or about October of 2002, for purposes of a finding of suitability by the BGC, the investigation did not formally commence until respondents filed their initial applications on March 10, 2003. Furthermore, respondents' assertion that the BGC intended to deny the applications even before they were filed, based on the initial impressions expressed by one of the BGC's investigators, is belied by the extensive investigation that subsequently occurred, and the consideration given to respondents' submissions by BGC Director Lytle prior to recommending denial of the applications.

32. As the investigation timeline demonstrated (Findings 29 through 74), much of the delay in conducting the investigation was due to respondents' own actions in failing to provide information in a timely fashion, canceling appointments, and narrowly interpreting questions, thereby providing responses that were unhelpful or confusing. During the three days of interviews with BGC investigators, respondent Saucier was reluctant to respond to questions and was evasive, contrary to respondents' assertions that respondent Saucier answered all questions raised by the investigators. Respondents' continuous submission of additional information, complaints filed against BGC personnel, requests for an independent investigation, and ongoing settlement negotiations further prolonged the process. Respondents' contention that the BGC should have granted the applications based on information provided in 2003 and 2004, and then acted to revoke the findings of suitability based on information obtained from the Oregon Attorney General's office, if warranted, is equally without merit. Considering all of the evidence, the length of the investigation, although protracted, was not unreasonable. Under these circumstances, it is not necessary to address respondents' contentions that they were prejudiced by the "delay," i.e., the duration and scope of the investigation. Respondents' motion to dismiss all or part of the Statement of Issues on the basis of laches is denied.

Respondents' Arguments Concerning Suitability Standards and Material Misrepresentations are Without Merit

33. Respondents contend that suitability for licensure is ultimately governed by Business and Professions Code sections 475, 480, and 490, and that these statutes should apply to findings of suitability under Business and Professions Code sections 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b). Respondents' contentions are not persuasive, for the reasons set forth below.

34. Business and Professions Code sections 475, 476, 480, and 490, are all found within Chapter 3 of Division 1.5 of the Business and Professions Code. Business and Professions Code sections 19857 and 19859 are found within Chapter 5 of Division 8 of the Business and Professions Code.

35. Business and Professions Code sections 475 states, in relevant part:

> (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:
>
> (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.
>
> (2) Conviction of a crime.
>
> (3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.
>
> (4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
>
> [¶]...[¶]
>
> (c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

36. Business and Professions Code section 480, subdivision (a), states, in relevant part, that a board may deny a license regulated by the Business and Professions Code on the grounds that the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of the business or profession for which application is made; has done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or himself or to substantially injure another; or has done any act that, if done by a licensee, would be grounds for suspension or revocation of the license. Business and Professions Code section 480, subdivision (c), provides that a board may deny a license regulated by the Business and Professions Code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

37. Business and Professions Code section 490 permits a board to suspend or revoke a license on the grounds that the licensee has been convicted of a substantially related crime.

38. Business and Professions Code section 476 states:

> (a) Except as provided in subdivision (b), **nothing in this division shall apply to the licensure or registration of persons** pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or **pursuant to Chapter 5 (commencing with Section 19800) of Division 8.**
>
> (b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).[40]

(Bold added.)

39. Business and Professions Code sections 475 and 476 were both enacted in 1972 as part of the same legislative bill (Stats. 1972, c. 903, p. 1605, § 1:Stats. 1972, c. 903, p. 1606, § 1), and section 476 was amended in 1983 to add the exception for Chapter 5 of Division 8.

40. Code of Civil Procedure section 1859 states:

> The intention of the Legislature or parties. In the construction of a statute the intention of the Legislature, and in the construction of the instrument the intention of the parties, is to be pursued, if possible; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it.

41. Business and Professions Code section 476 is a "special statute" within the meaning of Code of Civil Procedure, and it reflects the intent of the legislature to exempt licensing requirements under the Gambling Control Act from the limitations of Business and Professions Code section 475. In *Agricultural Labor Relations Board v. Superior Court*

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[40] Business and Professions Code section 494.5 requires governmental licensing entities to refuse to issue licenses to individuals whose names are on a certified list of tax delinquencies.

(1976) 16 Cal.3d 392, the California Supreme Court said: "On the other hand, it is no less settled that when a special and a general statute are in conflict, the former controls." (*Id.*, at p. 420; citing, Code Civ. Proc. § 1859.) The fact that the language pertaining to Chapter 5 of Division 8 was added to section 476 after the enactment of section 475 reinforces the argument that section 476 controls; to the extent that section 476 is deemed to conflict with section 475, the more recent legislative enactment controls. (*City of Petaluma v. The Pacific Telephone and Telegraph Company* (1955) 44 Cal.2d 284, 288 ["In accord with the rule that the latest legislative expression will be held controlling when there are conflicting statutory provisions, it has been held that various provisions of the Municipal Corporations Act were superseded to the extent that they were inconsistent with later enactments."])

42. Respondents also argue that, in order to deny a license, the conduct complained of must be related to unfitness to engage in the specific occupation or business at issue, citing *Perrine v. Municipal Court for East Los Angeles Judicial District* (1971) 5 Cal.3d 656, in which the Court reasoned that any government standards for excluding a person from a lawful occupation or business "must bear some reasonable relation to their qualifications to engage in those activities." (*Id.* at p. 663, citing *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 234-235.) Business and Professions Code section 19859, subdivision (b), states that "[f]ailure of the applicant to provide information, documentation, and assurances required by this chapter or requested by the director, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria" shall constitute grounds for denial of a license (or, in this case, a finding of suitability). Respondents contend that the term "fact material to qualification" and "material fact pertaining to the qualification criteria," as used in section 19859, subdivision (b), means that the conduct complained of must indicate unfitness to engage in the business of licensing intellectual property to casinos. Under this rationale, respondents contend that the failure to reveal information or the supplying of untrue or misleading information is only "material" if the information misrepresented or omitted reflects on GGCA's ability to act as a vendor of intellectual property to California tribes. Respondents' contention is not persuasive. Business and Professions Code section 19857, subdivision (a), prohibits the issuance of any gambling license unless the applicant is "[a] person of good character, honesty, and integrity." Thus, the general honesty and integrity of respondent Saucier is a proper matter for consideration in determining whether the Commission should issue a finding of suitability to him and to GGCA, and omissions or misrepresentations on the applications filed by respondents in this matter are "material."

Cause for Denial

43. Cause for denial of respondents' applications for a finding of suitability was established pursuant to Business and Professions Code section 19859, subdivision (b), in that respondents failed to reveal material facts and/or provided untrue or misleading information pertaining to material facts pertaining to the qualification criteria on the Principal Application and Business Application, by reason of Findings 102 through 153, 155 through 163, 169 through 170, and 172 through 182.

44. No cause for denial of respondents' applications for a finding of suitability was established pursuant to Business and Professions Code section 19859, subdivision (b), by reason of Findings 154, 164 through 168, and 171.

45. Cause for denial of respondents' applications for a finding of suitability was established pursuant to Business and Professions Code section 19859, subdivision (a), in conjunction with Business and Professions Code section 19857, subdivision (b), in that respondent Saucier's prior activities created or enhanced the dangers of unsuitable, unfair or illegal practices, methods, or activities in the conduct of controlled gambling and/or in the carrying on of the business and financial arrangements incidental to controlled gambling, by reason of Findings 214, 225, 227 through 241, and 259 through 265.

46. No cause for denial of respondents' applications for a finding of suitability was established pursuant to Business and Professions Code section 19859, subdivision (a), in conjunction with Business and Professions Code section 19857, subdivision (b), by reason of Findings 215 through 224, 226, 244 through 258, and 266 through 267.

47. Cause for denial of respondents' applications for a finding of suitability was established pursuant to Business and Professions Code section 19859, subdivision (a), in conjunction with Business and Professions Code section 19857, subdivision (a), in that respondent Saucier is not a person of good character, honesty, and/or integrity, by reason of Findings 268 through 272 and 278, and Legal Conclusions 43 and 45.

48. No cause for denial of respondents' applications for a finding of suitability was established pursuant to Business and Professions Code section 19859, subdivision (a), in conjunction with Business and Professions Code section 19857, subdivision (a), by reason of Finding 273.

49. For the reasons set forth in Findings 279 through 282, denial of the applications for a finding of suitability is necessary to protect the public. Respondent Saucier did not accept responsibility for his actions, nor did he demonstrate insight into the nature of his misconduct, as evidenced by the fact that he defended his lengthy avoidance of a valid debt (the Sherron Judgment) by arguing that he did not file personal bankruptcy as a matter of "honor," ignoring the obvious negative consequence that a personal bankruptcy filing would have had on him. Respondent Saucier's repeated acts of dishonesty and evasiveness raise serious questions about the likelihood that he would continue to engage in such conduct in the future, if he found himself in similar circumstances. As was noted in *Gee v. California State Personnel Board* (1970) 5 Cal.App.3d 713:

> "Dishonesty" connotes a disposition to deceive. (*Midway School Dist. v. Griffeath* (1946) 29 Cal.2d 13, 18.) It "'denotes an absence of integrity; a disposition to cheat, deceive, or defraud; ...'" (*Hogg v. Real Estate Comr.* (1942) 54 Cal.App.2d 712, 717.)

[¶] . . . [¶]

> Honesty is not considered an isolated or transient behavioral act; it is more of a continuing trait of character.

(*Id.* at pp. 718-719; *Ackerman v. State Personnel Bd.* (1983) 145 Cal.App.3d 395, 399.)

50. Respondents have not sustained their burden to establish that respondents are suitable to act as gaming resource suppliers to California Indian Tribes. Therefore, the applications must be denied.

Other Matters

51. All arguments of the parties not specifically addressed herein were considered and are rejected.

52. In the Statement of Issues filed by complainant, the prayer included a request that complainant be awarded investigative costs pursuant to Business and Professions Code section 19930. There was no evidence introduced at hearing pertaining to costs of investigation, preparation and prosecution of the case before the Commission, and neither complainant nor respondents raised the issue during the hearing or in closing argument. Therefore, this issue is not further addressed.

ORDER

1. The application of Robert Saucier for a finding of suitability is DENIED.

2. The application of Galaxy Gaming of California, LLC, for a finding of suitability is DENIED.

DATED: April 26, 2013.

Catherine B. Frink

CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE

CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the State of Issues Against: ROBERT SAUCIER, and GALAXY GAMING OF CALIFORNIA, LLC,	OAH No. 2010031918 **DECISION AND ORDER**

DECISION

1. The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the State of California, Gambling Control Commission as its Decision in the above-entitled matter.

This Decision shall become effective on 7/11/2013.

Dated: 7/11/13 Signature: _____
Richard J. Lopes, Chairman

Dated: 7/11/2013 Signature: _____
Tiffany E. Conklin, Commissioner

Dated: 7/11/13 Signature: _____
Lauren Hammond, Commissioner

Dated: 7/11/13 Signature: _____
Richard Schuetz, Commissioner