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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Renewal of  
State Gambling License for Poker Flats Casino  
(GEGE-001276) of:

Terry Vargas  
(GEOW-003095)

Applicant.

BGC Case No. HQ2015-0000-4SL  
CGCC Case No. CGCC-2015-0122-3B

**DECISION AND ORDER**

Hearing Date: October 26, 2016  
Time: 10:00 a.m.

9 This matter was heard by the California Gambling Control Commission (Commission)  
10 pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California  
11 Code of Regulations (CCR) sections 12056(a), in Sacramento, California, on October 26, 2016.

12 James G. Waian, Deputy Attorney General, State of California, represented complainant  
13 Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice,  
14 State of California.

15 Designated Agent Tawni Vargas represented Terry Vargas owner and sole proprietor of  
16 Poker Flats Casino (Respondent) at the hearing.

17 During the administrative hearing, Presiding Officer Jason Pope took official notice of the  
18 following:

19 (1) May 28, 2015 Notice of Hearing and Prehearing Conference with the following  
20 enclosures: (a) Respondent's Application for State Gambling License signed May 8, 2014; (b) the  
21 Bureau's June 12, 2014 Level II Investigation Report; (c) the Bureau's Addendum to the 2014  
22 Renewal Background Investigation Report dated July 16, 2014; (d) the Bureau's Renewal  
23 Background Investigation Report, Level III Denial dated December 2014;

24 (2) Conclusion of Prehearing Conference dated February 19, 2016;

25 (3) Conclusion of Prehearing Conference dated October 30, 2015;

26 (4) Notice of Rescheduled Hearing dated November 2, 2015;

27 (5) Updated Notice of Hearing and Prehearing Conference dated September 11,  
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1 2015;

2 (6) Tawni Vargas' active Key Employee License Status, expiring May 31, 2018.

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

5 (1) Statement of Reasons; Statement to Respondent; copies of Business and  
6 Professions Code Sections 19870 & 19871; copy of California Code of Regulations, title 4, §  
7 12060; and March 4, 2016 Certificate of Service by Overnight Mail Service, Bates Nos. BGC  
8 001-023;

9 (2) February 11, 2015 Executed Notice of Defense, Bates Nos. BGC 024-026;

10 (3) Notices from the Commission (a) July 24, 2014, Extension of State Gambling  
11 License with a Condition, Bates Nos. BGC 027-033; (b) January 28, 2015 Referral of State  
12 Gambling License to an Evidentiary Hearing and interim Renewal License with Conditions  
13 Issued, Bates Nos. BGC 034-038; (c) May 28, 2015, Notice of Hearing and Prehearing  
14 Conference, with Attachments, Bates Nos. BGC 039-112;

15 (4) May 13, 2014 Renewal Application for State Gambling License for Poker  
16 Flats Casino, Applicant Terry Vargas, signed May 8, 2014, Bates Nos. BGC 113-118;

17 (5) August 1, 2014-January 31, 2015, Certificate of Licensure with Conditions for  
18 Terry Vargas, Sole Proprietor, dba Poker Flats Casino, License Number GECE-001276, Bates  
19 Nos. BGC 119-122;

20 (6) February 1, 2015-January 31, 2017, Interim Renewal License Endorsement  
21 with Conditions for Terry Vargas, Sole Proprietor, dba Poker Flats Casino, License number  
22 GECE-001276, Bates Nos. BGC 123-125;

23 (7) October 22, 2014, Electronic mail correspondence from Bureau of Gambling  
24 Control auditor Matthew Liu to Tawni Vargas regarding license conditions, Bates Nos. BGC 126-  
25 128;

26 (8) July 11, 2014, Bureau Letter of Warning to Poker Flats Casino, Adequate  
27 Financing Evaluation, Bates Nos. BGC 129-132;

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1 (9) July 11, 2014, Bureau Letter of Warning to Poker Flats Casino, Violation of  
2 Financial Statements and Reporting Requirements, Bates Nos. BGC 133-136;

3 (10) February 3, 2015, Bureau Letter of Warning to Poker Flats Casino, Financial  
4 Statements and Reporting Requirements, Bates Nos. BGC 137-138;

5 (11) May 13, 2015 Bureau Letter of Warning to Poker Flats Casino, Delinquent  
6 Gambling Addiction Program Fund Fees, Bates Nos. BGC 139-141;

7 (12) October 20, 2015 Bureau Letter of Warning to Poker Flats Casino, Failure to  
8 Post Owner's Gambling License, Bates Nos. BGC 142-143;

9 (13) February 9, 2016, Bureau Letter of Warning to Poker Flats Casino, Failure to  
10 License Key Employees, Bates Nos. BGC 144-146.

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

13 (A) Letter from Sai Saechao;

14 (B) Letter of Explanation Regarding Payment of Tax Liens;

15 (C) Letter from Accountant;

16 (D) Record Keeping Policies and Procedures;

17 (E) 19 Letters of Recommendation for Terry Vargas;

18 (F) Federal Tax Returns for 2012, 2013, and 2014.

19 The matter was submitted on October 26, 2016.

#### 20 FINDINGS OF FACT

21 1. On or about May 13, 2014, Respondent, doing business as Poker Flats Casino,  
22 submitted an Application for a State Gambling License (Application), with the Bureau for  
23 renewal of her license. The license was valid from September 1, 2012 through July 31, 2014 and  
24 contained two conditions requiring Respondent to retain an accountant and to provide specific  
25 categories of financial and compliance documentation to the Bureau.

26 2. On or about June 13, 2014, the Commission received a Gambling Establishment and  
27 Owner Application Review, Level II, from the Bureau covering the period June 10, 2012 through  
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1 June 12, 2014. The review concluded that Respondent was in partial compliance with the two  
2 conditions on her license and recommended that the current conditions remain on the license.

3 3. On July 11, 2014, the Bureau sent two Letters of Warning to Respondent. One  
4 warning letter stated that Poker Flats Casino did not satisfy regulatory requirements pertaining to  
5 adequate financing pursuant to California Code of Regulations Title 11, section 2053. The  
6 second warning letter stated that Poker Flats Casino was not in compliance with regulatory  
7 requirements pertaining to the submission of financial data for California cardrooms pursuant to  
8 former California Code of Regulations Title 4, section 12403.

9 4. On July 16, 2014, the Bureau sent the Commission an Addendum to the 2014 Renewal  
10 Background Investigation Report for Poker Flats Casino (Addendum Report). The Addendum  
11 Report noted that Poker Flats was in partial compliance with the two conditions on its license.  
12 The Addendum Report recommended six conditions be placed on Respondent's license, most of  
13 which would require Poker Flats Casino to disclose financial and compliance documentation to  
14 the Bureau, including, but not limited to, documents regarding its chips-in-use account, jackpot  
15 records, daily count sheets, quarterly balance sheets, profit and loss statements, and proof of  
16 satisfaction of tax liens. The report also recommended a condition requiring Tawni Vargas and  
17 Sai Saechao to submit applications for Gambling Establishment Key Employee Licenses.

18 5. Also on July 16, 2014, the Bureau completed an Adequate Financing Evaluation of  
19 Poker Flats Casino. The evaluation also concluded that additional conditions should be placed on  
20 Respondent's license.

21 6. At its July 24, 2014 meeting, the Commission considered Respondent's Application  
22 and extended the license for a period of six months to January 31, 2015 subject to the six  
23 conditions recommended by the Bureau in the Addendum Report.

24 7. At its January 22, 2014 meeting, the Commission referred consideration of  
25 Respondent's Application to an evidentiary hearing and issued Respondent an interim renewal  
26 license valid from February 1, 2015 through January 31, 2017, subject to the six previously  
27 imposed license conditions.  
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8. On or about February 3, 2015, the Bureau sent a Letter of Warning to Respondent for failing to submit financial reports for 2013 and failing to comply with reporting requirements pursuant to former California Code of Regulations Title 4, section 12403.

9. On or about February 11, 2015, Respondent submitted a timely Notice of Defense.

10. On or about May 13, 2015, The Bureau sent a Letter of Warning to Respondent for delinquent Gambling Addiction Program Fund Fees for the year 2015.

11. On or about October 20, 2015, the Bureau sent a letter of Warning to Respondent after an unannounced site visit for failing to post an Owner's State Gambling License at all times in a conspicuous place as required by the Bureau's regulations.

12. On or about February 9, 2016, the Bureau sent a letter of warning to Respondent after an unannounced site visit for failing to produce key employee application packets for Tawni Vargas and Sai Saechao to a Bureau Field Representative.

13. On or about March 7, 2016, the Bureau filed a Statement of Reasons requesting a hearing and that the Commission deny Respondent's Application.

14. The Bureau's Statement of Reasons alleges that Respondent's Application is subject to denial pursuant to Business and Professions Code section 19857 because Respondent failed to comply with the six conditions placed on her license at the July 2014 Commission meeting.

15. The Statement of Reasons further alleges that Respondent's Application is subject to denial pursuant to Business and Professions Code section 19857 because Respondent failed to comply with statutory and regulatory requirements and the conditions placed on her license, which resulted in the receipt of multiple letters of warning to Respondent.

16. On or about May 28, 2015, the Commission's Chief Counsel set the matter for a hearing to be conducted pursuant to the provisions of Business and Professions Code sections 19870 and 19871 and California Code of Regulations Title 4, sections 12056(a) and 12060(b).

17. The Commission heard Case No. CGCC-2015-0122-3B on October 26, 2016. The Bureau was represented throughout the pendency of the hearing by Deputy Attorney General

1 James G. Waian. Respondent was represented by her daughter and designated agent Tawni  
2 Vargas.

3 18. At the Commission hearing, Tawni Vargas testified that she had worked as a florist at  
4 her mother's (Respondent's) floral business until her father passed away in 2002. Upon her  
5 father's death, she began assisting Respondent with managing Poker Flats Casino, a cardroom  
6 that was previously owned and managed by her father.

7 19. Tawni Vargas testified that she incorrectly believed that in order to comply with one  
8 of Respondent's license conditions, she needed to place enough funds in a separate account to  
9 cover all chips in the cage (\$25,000), which she was unable to do. Ms. Vargas testified that her  
10 financial inability to comply with this condition resulted in her giving up on all efforts to comply  
11 with the remaining conditions.

12 20. In early 2015, Ms. Vargas learned that she only needed to place enough funds in a  
13 separate account to cover outstanding chips, which was a much smaller amount. Ms. Vargas  
14 testified that she was then able to comply with the condition and began sending quarterly  
15 statements for the account to the Bureau.

16 21. Tawni Vargas testified that Poker Flats Casino switched from using Excel to  
17 QuickBooks. Ms. Vargas testified that she had a difficult time with this transition because she  
18 was not knowledgeable with QuickBooks and did not have a background as a bookkeeper. Ms.  
19 Vargas testified that the transition to QuickBooks was initially a "disaster," which prevented her  
20 from timely supplying documentation to the Bureau.

21 22. Tawni Vargas testified that her inability to effectively transition to and use  
22 QuickBooks led her to request an extension to file Poker Flats Casino's tax returns for the years  
23 2012-2014 because she was not able to access the information that the accountant needed to  
24 prepare the returns. By the time the tax returns were completed and filed, the deadline set by the  
25 licensing condition for providing the documents to the Bureau had already passed.

26 23. Tawni Vargas testified that she believed that once she missed the deadline to submit  
27 documents to the Bureau, that she was no longer required to send them. Thereafter, Poker Flats  
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1 Casino retained an attorney. The attorney told Ms. Vargas that she should send the tax returns  
2 and other documents to the Bureau even though the deadline set by Respondent's license  
3 conditions had passed. Ms. Vargas testified that in October 2015, after receiving advice from  
4 Poker Flats Casino's attorney, she sent the tax returns and other required documents to the  
5 Bureau.

6 24. Tawni Vargas testified that she did not retain an attorney or bookkeeper or seek  
7 outside help prior to the deadline imposed by Respondent's license conditions because she was  
8 prepared to "give up." However, after having a family meeting, Ms. Vargas and Respondent  
9 decided to fight to keep the cardroom open.

10 25. Tawni Vargas testified that her relationship with Bureau employees has dramatically  
11 improved and she now feels that she can ask for guidance if she is having difficulty complying  
12 with license conditions. Ms. Vargas also testified that Poker Flats Casino is currently in  
13 compliance with the six conditions placed on Respondent's license.

14 26. Tawni Vargas testified that she and Sai Saechao obtained key employee licenses as  
15 required by the fifth condition placed on Respondent's license.

16 27. Tawni Vargas testified that all issues raised by the Letters of Warnings from the  
17 Bureau have been addressed. Ms. Vargas stated that Poker Flats Casino's license is posted in a  
18 conspicuous place and delinquent Gambling Addiction Program Fund Fees for the year 2015 have  
19 been paid.

20 28. Tawni Vargas testified that the Employment Development Department liens that are  
21 the subject of conditions on Respondent's license were released after the liability was paid in full.  
22 Respondent also admitted documentary evidence demonstrating that the liens were in the process  
23 of being released as of October 15, 2015.

24 29. Tawni Vargas testified that there are IRS liens against Poker Flats Casino that are  
25 currently being negotiated. The liens resulted from the mistaken use of two Tax Identification  
26 Numbers, one associated with the late Mr. Vargas and one associated with Respondent. Tawni  
27 Vargas testified that Respondent is in the process of obtaining a loan by using her house as  
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1 collateral to satisfy the IRS lien.

2 30. Margaret Kammerer, Bookkeeper, testified that she was retained by Respondent as an  
3 independent contractor in September 2015. In October 2015, Poker Flats Casino sent the first  
4 batch of documents to the Bureau in an attempt to come into compliance with Respondent's  
5 licensing conditions.

6 30. Ms. Kammerer testified that she obtained a work permit in May 17, 2016 and became  
7 an employee of Poker Flats Casino at that time.

8 31. Ms. Kammerer testified that Poker Flats Casino's books and profit and loss  
9 statements are up to date. However, she is still working on updating the balance sheets. Ms.  
10 Kammerer testified that Robert Kregg, CPA, is assisting her with correcting the balance sheets.

11 32. Ms. Kammerer testified that she believes the cardroom is currently in compliance  
12 with all conditions placed on Respondent's license.

13 33. Respondent Terry Vargas testified that she owns a floral business and worked as a  
14 florist for twenty nine years. When her husband died, it took her 9 months to get licensed and  
15 reopen Poker Flats Casino.

16 34. Respondent testified that she wants to keep her license and that she will try very hard  
17 to perform better in the future, including retaining others to advise her if necessary.

18 35. Respondent and Tawni Vargas were candid and forthcoming regarding the  
19 circumstances surrounding their failure to comply with Respondent's license conditions.  
20 Respondent accepted responsibility for her past actions and appeared remorseful.

21 36. Respondent's exhibits containing character references are persuasive that Respondent  
22 is a hard-working and well respected business owner in her community; and that she is generally  
23 honest, trustworthy and has good integrity.

24 37. Based on Respondent's candid testimony during the hearing regarding the  
25 circumstances surrounding her failure to comply with licensing conditions; the numerous  
26 supporting letters of character witnesses; the fact that she has retained a CPA and bookkeeper and  
27 is attempting to improve her accounting procedures; the accomplishment of paying the  
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1 outstanding EDD liens; and her successful effort to comply with licensing conditions and rectify  
2 letters of warning, Respondent has demonstrated that she is a person of good character, honesty,  
3 and integrity.

4 38. Respondent's prior activities, criminal record, reputation, habits and associations do  
5 not pose a threat to the public interest of this state, or to the effective regulation and control of  
6 controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices,  
7 methods, and activities in the conduct of controlled gambling or in the carrying on of the business  
8 and financial arrangements incidental thereto.

9 39. All documentary and testimonial evidence submitted by the parties that is not  
10 specifically addressed in this Decision and Order was considered but not used by the Commission  
11 in making its determination on Respondent's Application.

12 40. The matter was submitted for Commission consideration on October 26, 2016.

#### 13 LEGAL CONCLUSIONS

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

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

21 3. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
22 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to  
23 prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,  
24 CCR section 12060(i). Business and Professions Code section 19856(a).

25 4. An application to receive a license constitutes a request for a determination of the  
26 applicant's general character, integrity, and ability to participate in, engage in, or be associated  
27 with, controlled gambling. Business and Professions Code section 19856(b).

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1 Title 4, CCR section 12064, subsections (a) and (b) provide, in part:

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

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

9 A decision of the commission denying a license or approval, or imposing any  
10 condition or restriction on the grant of a license or approval may be reviewed by  
11 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of  
12 the Code of Civil Procedure shall not apply to any judicial proceeding described in  
13 the foregoing sentence, and the court may grant the petition only if the court finds  
14 that the action of the commission was arbitrary and capricious, or that the action  
15 exceeded the commission's jurisdiction.

13 Title 4, CCR section 12066, subsection (c) provides:

14 A decision of the Commission denying an application or imposing conditions on license  
15 shall be subject to judicial review as provided in Business and Professions Code section  
16 19870, subdivision (e). Neither the right to petition for judicial review nor the time for  
17 filing the petition shall be affected by failure to seek reconsideration.

## 17 ORDER

18 1. Terry Vargas' Application for a State Gambling License is GRANTED with  
19 conditions:

20 (a) Respondent must request a letter from the Bureau confirming that the Bureau  
21 has received all documents required to be provided to it by Respondent's 2014 license conditions  
22 and stating which documents, if any, have not been provided. Respondent must provide any  
23 outstanding documents to the Bureau within 60 days of receipt of the Bureau's letter. The 60 day  
24 period may be extended if the Bureau authorizes an extension in writing.

25 (b) Respondent must retain a Bureau approved gambling consultant for a period of  
26 at least one year. Respondent must request Bureau approval of the consultant within 90 days of  
27 this order and officially retain said consultant within 90 days of receipt of Bureau approval.  
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1 (c) On a monthly basis for a minimum of twelve months, the Bureau approved  
2 gambling consultant retained by Respondent must provide the Bureau with a report verifying that  
3 he/she is meeting at least once a month with Respondent and that Poker Flats Casino is in  
4 compliance with the Gambling Control Act and its current licensing conditions.

5 (d) On a quarterly basis, starting with the quarter ending March 31, 2017,  
6 Respondent shall submit to the Bureau no later than 15 days from the end of the quarter, an  
7 update to the Bureau indicating the status of all outstanding tax obligations, including, but not  
8 limited to, satisfaction of all tax obligations or documentation of a payment plan for unpaid  
9 obligations. For the purpose of this condition, quarters are defined as follows:

10 1st quarter: January 1– March 31

11 2nd quarter: April 1 – June 30

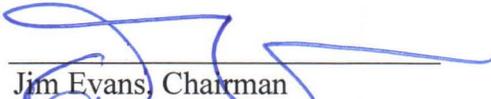
12 3rd quarter: July 1 – September 30

13 4th quarter: October 1 – December 31

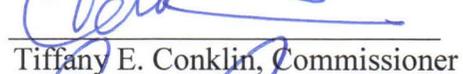
14 2. Each side to pay its own attorneys' fees.

15 This Order is effective on 12-8-16.

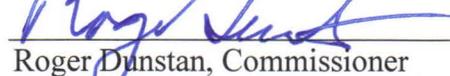
16 Dated: 12/8/16

17 Signature:   
Jim Evans, Chairman

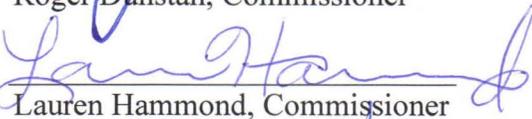
18 Dated: 12/8/2016

19 Signature:   
Tiffany E. Conklin, Commissioner

20 Dated: 12/8/16

21 Signature:   
Roger Dunstan, Commissioner

22 Dated: 12/8/16

23 Signature:   
Lauren Hammond, Commissioner

24 Dated: 12/8/16

25 Signature:   
Trang To, Commissioner