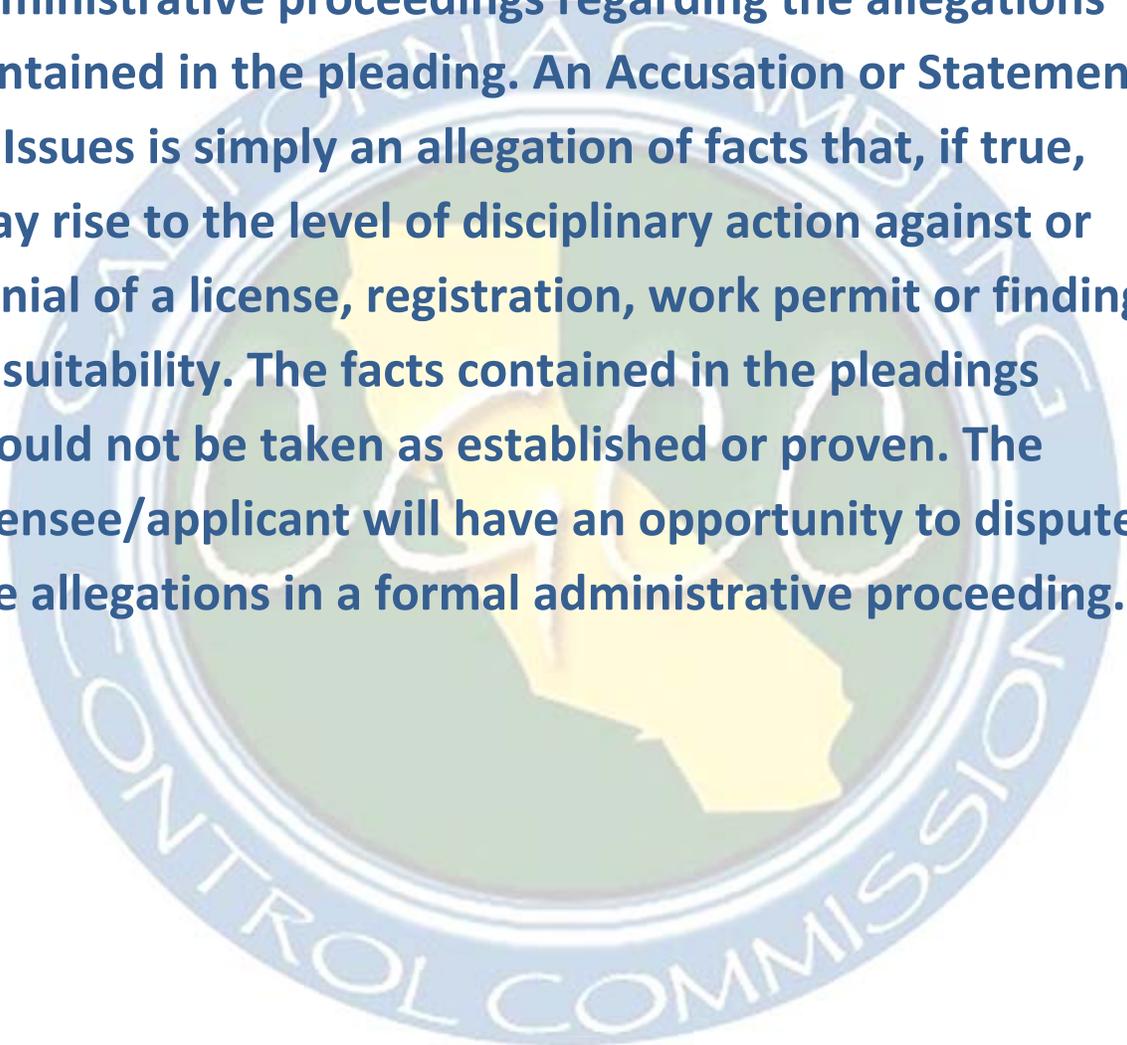


The Commission is providing a copy of this disciplinary pleading (Accusation, or Statement of Reasons, Statement of Particulars, or Statement of Issues) so the public is as informed as possible of pending administrative proceedings regarding the allegations contained in the pleading. An Accusation or Statement of Issues is simply an allegation of facts that, if true, may rise to the level of disciplinary action against or denial of a license, registration, work permit or finding of suitability. The facts contained in the pleadings should not be taken as established or proven. The licensee/applicant will have an opportunity to dispute the allegations in a formal administrative proceeding.





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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Fourth Amended Statement of Issues Regarding:
SAHARA DUNES CASINO, LP, provisional license number GEOW-002466; sole owner of, and doing business as, **Lake Elsinore Hotel and Casino**;
 Partners of Sahara Dunes Casino, LP:
 Ted Kingston,
 Joseph Kingston, and
 Sahara Dunes Management, Inc.
 Shareholders of Sahara Dunes Management, Inc.:
 Ted Kingston, and
 Joseph Kingston.
 20930 Malaga Road
 Lake Elsinore, California 92530
Respondent.

BGC No. BGC-HQ2017-00001SL
OAH No: 2017070210
FOURTH AMENDED STATEMENT OF ISSUES

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Wayne J. Quint, Jr. brought the initial Statement of Issues solely in his former
4 official capacity as the Director of the California Department of Justice, Bureau of Gambling
5 Control (Bureau). Nathan DaValle brought a First Amended Statement of Issues solely in his
6 former official capacity as the Bureau's Acting Director. Stephanie Shimazu (Complainant)
7 brought a Second Amended Statement of Issues and a Third Amended Statement of Issues and
8 now brings this Fourth Amended Statement of Issues solely in her official capacity as the
9 Bureau's Director.

10 2. Lake Elsinore Hotel and Casino (Casino), cardroom license number GEGE-001149,
11 is a 22-table gambling establishment, which is located at 20930 Malaga Road in Lake Elsinore,
12 California.

13 3. Sahara Dunes Casino, LP (Respondent), provisional license number GEOW-
14 002466, is the sole owner of, and doing business as, the Casino.

15 4. Ted Kingston, as a limited partner, License Information System (LIS)¹ record
16 number GEOW-002465, purports to own a 47.5-percent partnership interest in Respondent.

17 5. Joseph Kingston, as a limited partner, LIS record number GEOW-002464, purports
18 to own a 47.5-percent partnership interest in Respondent. Joseph Kingston desires to sell his
19 interest to Chad Benson.

20 6. Sahara Dunes Management, Inc. (Corporation), as general partner, LIS record
21 number GEOW-002470, has represented that it owns a five-percent partnership interest in
22 Respondent.

23 7. Ted Kingston, LIS record number GEOW-003733, purports to own 50-percent of
24 the shares of the Corporation.

25 _____
26 ¹ LIS is an automated record-tracking system in which an applicant for licensure's
27 information, and records related thereto, are kept. In this case, which involves a provisional
28 license, the LIS record number is a tracking number that is unique to each of the applicants and his
or its application.

1 predecessor of the current Gambling Control Act (Act) (Bus. & Prof. Code, § 19800 et seq.),
2 which went into effect in 1997.⁵

3 11. As required by the Gaming Registration Act, in or about December 1991, Ted
4 Kingston and Joseph Kingston, as well as Clyde Elden Kingston and Michelle Kingston-
5 Knighton, submitted applications for registration in furtherance of their proposed purchase of
6 Respondent and the Sahara Dunes Casino. On or about March 10, 1993, the Office of Gaming
7 Registration approved the purchase agreement and issued registrations to those four individuals.
8 Thereafter, these registrations were renewed on an annual basis.

9 12. In 1999, the Division was notified that Michelle Kingston-Knighton had at some
10 unknown prior point in time transferred her ownership interest in Respondent to her father,
11 Joseph Kingston.

12 13. As described below, beginning in or about September 1999, Respondent, the
13 Corporation, Clyde Elden Kingston, Ted Kingston, and Joseph Kingston applied to the Division
14 for licensure pursuant to the Act. (Bus. & Prof. Code, § 19851.) The Bureau issued a
15 provisional license to Respondent to operate the Casino while these applications for state
16 gambling licenses were pending. From 1999 to the present, Respondent has requested, and been
17 granted, continuous extensions of the provisional license. The current provisional license will
18 expire on December 31, 2019.⁶

19 14. On or about October 8, 2005, Clyde Elden Kingston passed away. Respondent's
20 agents have represented that all of his ownership interest in Respondent was inherited, or
21 otherwise acquired, by his son, Ted Kingston. Respondent further represented that the
22

23
24 ⁵ The statutes and regulations from the Act, and the regulations adopted thereunder,
25 specifically applicable to this Fourth Amended Statement of Issues, are quoted in pertinent part in
Appendix A.

26 ⁶ On January 1, 2019, the Bureau issued Respondent a Certificate to Operate with
27 Conditions, which expires on December 31, 2019. A provisional license is held subject to all
28 terms and conditions under which a license is held pursuant to the Act. (Cal. Code Regs., tit. 11, §
2141, subd. (b).)

1 inheritance and acquisitions ultimately led to the current ownership structure of the Casino by
2 Respondent, as described in paragraphs 2 through 9 above.

3 **LICENSE APPLICATIONS RELATING TO RESPONDENT UNDER THE ACT**

4 15. Beginning in September 1999, Respondent, the Corporation, Clyde Elden
5 Kingston, Ted Kingston, and Joseph Kingston applied to the Division for licensure pursuant to
6 the Act. (Bus. & Prof. Code, § 19851.) Clyde Elden Kingston, Ted Kingston, and Joseph
7 Kingston submitted applications with respect to their respective limited partnership interests in
8 Respondent. Neither Clyde Elden Kingston nor Joseph Kingston submitted an application with
9 respect to his interests as a shareholder, an officer, or a director in the Corporation. Collectively,
10 the applications are referred to as the “1999 Applications.”

11 16. In the 1999 Applications, Respondent’s ownership was represented to be as
12 follows:

13 Respondent – 100-percent owner of the Casino:

14 Partners of Respondent:

15 Limited Partner – Ted Kingston – two-percent owner

16 Limited Partner – Joseph Kingston – 21.75-percent owner

17 Limited Partners – Clyde Elden Kingston – 19.75-percent owner

18 General Partner – Sahara Dunes Management, Inc. – 56.5-percent owner

19 Shareholders of Sahara Dunes Management, Inc.:

20 Clyde Elden Kingston – 50-percent shareholder

21 Joseph Kingston – 50-percent shareholder

22 17. In the 1999 Applications, the applicants made the following representations:

- 23 a. Ted Kingston owned two percent of Respondent and his initial investment was a
24 gift from his father, Clyde Elden Kingston. In his earlier 1993 application, Ted
25 Kingston represented: (i) his initial investment was a gift from his parents, (ii) the
26 purchase price for Respondent was \$4 million of which Fidelity Funding Co.
27 (Fidelity Funding) provided \$3 million; and (iii) he held \$275,000 in World
28 Enterprises (World Enterprises) stock. In his 1993 application, Ted Kingston

1 included “Exhibit ‘A’ – Description of Transaction,” which set forth the total
2 purchase price and sources of funds.

- 3 b. Joseph Kingston invested \$500,000 in Respondent that represented a 50-percent
4 ownership interest. He held: (i) a note receivable to be paid by World
5 Enterprises; (ii) an eight-percent interest in World Enterprises; and (iii) an eight-
6 percent interest in Fidelity Funding.
- 7 c. Clyde Elden Kingston invested \$59,250 in Respondent and \$25,000 in the
8 Corporation. He held: (i) a 100-percent interest in LER Lounge, Inc. (LER
9 Lounge); (ii) a nine-percent interest in World Enterprises; (iii) had notes payable
10 to World Enterprises totaling \$3.5 million; (iv) had a note receivable to be paid by
11 LER Lounge in the amount of \$80,000; and (v) had a note receivable to be paid
12 by Respondent in the amount of \$3.46 million. Clyde Elden Kingston identified
13 his wife, Gayle, and eight children, including Ted Kingston. Clyde Elden
14 Kingston put “N/A” for former marriages. In his earlier 1991 application, he
15 represented that he had a note receivable to be paid by World Enterprises.
- 16 d. Respondent stated: (i) it had an account receivable from LER Lounge in the
17 amount of \$1.3 million; (ii) it had an account payable to Fidelity Funding in the
18 amount of \$1.3 million; (iii) it had a note payable to Clyde Elden Kingston in the
19 amount of \$3.46 million; and (iv) it had a note payable to Fidelity Funding in the
20 amount of \$63,000.

21 18. In connection with the 1999 Applications, the Division requested the following,
22 among other things, from the applicants:

- 23 a. A copy of a proposed sale agreement, which included the terms and conditions of
24 the proposed transfer of Michelle Kingston-Knighton’s interest in Respondent.
25 Clyde Elden Kingston responded: (i) she was a limited partner, whose two-
26 percent interest was given to her by her father, Joseph Kingston; (ii) she no longer
27 wished to be part of the partnership; (iii) she transferred her interest back to her
28 father; and (iv) she received no compensation for her interest. Michelle Kingston-

1 Knighton responded similarly. No sale agreement or other documentation was
2 provided.

3 b. A copy of the proposed amended partnership agreement. None was provided.

4 c. Information as to why the Division had not received a corporate application on
5 behalf of the Corporation. Clyde Elden Kingston responded that he understood
6 no application was necessary. A corporate application was submitted, but no
7 application was received from Clyde Elden Kingston or Joseph Kingston in their
8 capacities as shareholders, officers, or directors.

9 d. A list of related parties or affiliates. Clyde Elden Kingston responded that
10 Respondent did not have ownership or an interest in LER Lounge, Mountain Coin
11 (World Enterprises), and Fidelity Funding, even though Respondent's principals
12 did. He further responded: "In the future I will list these as related entities with
13 an explanation of Sahara Dunes relationship if this is required by the regulations."
14 No listing of related parties or affiliates was provided.

15 e. Confirmation of outstanding loans to Respondents and Clyde Elden Kingston by
16 Fidelity Funding, including origination date, original amount, maturity date,
17 payment terms, interest rate, and current outstanding balances. The Bureau did
18 not receive a response.

19 f. Copies of notes and related documents for loans from Fidelity Funding and
20 information on how funds totaling approximately \$6 million were used and will
21 be repaid. The Bureau did not receive a response.

22 g. Copies of invoices making up the amount of approximately \$1.4 million due from
23 LER Lounge. The Bureau did not receive the requested copies or information.

24 19. Following the 1999 Applications, the Bureau submitted Background Investigation
25 Reports to the California Gambling Control Commission (Commission) as follows:

26 a. Report dated October 29, 2004, and amended December 21, 2004 (2004 Report).

27 The Bureau identified concerns that did "not rise to the level of a denial." The
28 Bureau recommended the 1999 Applications be granted subject to certain

1 conditions outlined in the report. The conditions included, among others, audited
2 financial statements and compliance with adequate financing regulations.

3 (1) The 2004 Report noted that Fidelity Funding “is reportedly a family-owned
4 business in which Joseph Kingston has an ownership interest, and
5 provides funding for other businesses which the Kingston’s own, . . . but is not
6 licensed as a bank or financial institution in Utah.”

7 (2) The 2004 Report concluded that Michelle Kingston-Knighton transferred her
8 interests before being summoned for licensing and the Act did not apply.

9 (3) The 2004 Report identified a long-term building lease between Respondent
10 and Fidelity Funding.

11 (4) In the 2004 Report, one area of concern was inadequate records and
12 documentation, which included, among other things, a reported \$1.6 million
13 liability to Fidelity Funding, which did not confirm the liability’s existence,
14 and an undocumented \$4.3 million liability to Clyde Elden Kingston.

15 (5) The 2004 Report stated that the owners “have been reluctant to provide
16 sufficient information to determine the reason for transactions with related
17 entities.”

18 (6) The 2004 Report also stated that a condition was “necessary because Sahara
19 Dunes has a history of noncompliance with the requirements of the Bank
20 Secrecy Act and IRS reporting of winnings and giveaways. The
21 owners/partners have demonstrated that they do not have a clear
22 understanding of their responsibilities under the law.”

23 b. Report dated September 11, 2008 (2008 Report). The Bureau recommended
24 denial of the 1999 Applications for, among other reasons, the following:

25 (1) The applicants failed to disclose all persons who have an ownership or
26 financial interest in the Casino. The report identified building leases between
27 Respondent and Fidelity Funding and D.U. Company, Inc. (D.U. Company).
28 The 2008 Report described D.U. Company as owned by unidentified persons

1 familially related to the applicants. The 2008 Report and accompanying
2 auditor’s report identified services, such as accounting and legal services,
3 provided by persons or entities familially related to the applicants.

4 (2) The applicants failed to provide information or documentation requested by
5 the Bureau. The 2008 Report noted Respondent’s ownership as stated in
6 documents on file with the Secretary of State and the applicants’ failure to
7 provide requested official documentation confirming a change in that
8 structure. The 2008 Report also noted that Ted Kingston failed to provide
9 requested documentation regarding the transfer of Clyde Elden Kingston’s
10 interests to him.

11 (3) The applicants provided misleading or untrue information to the Bureau. The
12 Casino did not notify the Bureau of Clyde Elden Kingston’s October 8, 2005
13 death until after the Bureau requested additional information for its
14 background investigation. Rather than providing probate or similar
15 substantiating documents as the Bureau requested, applicants provided written
16 statements from Ted Kingston and another person having a familial
17 relationship with the applicants.

18 (4) The applicants failed to notify the Commission or the Bureau when, or obtain
19 the Commission’s approval prior to, transferring Clyde Elden Kingston’s
20 ownership interests to Ted Kingston.

21 (5) The Casino’s financial statements were not reviewed by an independent
22 accountant certified by the California Board of Accountancy. The 2008
23 Report noted that the Casino’s financial statements were prepared, but not
24 reviewed or audited, by a Utah accounting firm that was familially related to
25 the applicants.

26 (6) The Casino employed (i) a convicted felon, who had previously been denied a
27 license, as a key employee and (ii) a person previously denied a work permit
28 by the City of Lake Elsinore.

1 (7) The 2008 Report included copies of three violation notices and one letter of
2 warning.

3 20. The Commission took no action with respect to the 2004 Report's
4 recommendations. At its June 11, 2009 meeting and after receiving the 2008 Report, the
5 Commission referred the 1999 Applications to an evidentiary hearing to be held pursuant to
6 Business and Professions Code section 19825.⁷

7 21. On or about November 3, 2015, an evidentiary hearing having not yet taken place,
8 the Bureau requested that the Commission reconsider its 2009 decision to refer the matter to a
9 hearing. The Bureau stated that a current, updated investigation was necessary to determine if
10 Respondent and its partners were presently suitable for licensure. On or about January 15, 2016,
11 the Bureau sent the Commission an addendum to that request.

12 22. At its February 25, 2016 meeting, the Commission voted unanimously to
13 withdraw its 2009 referral of this matter to an evidentiary hearing. The Commission also
14 directed the Bureau to conduct an investigation and update its 2008 Report on the required
15 applications for licensure.

16 23. In 2015 and 2016, the Bureau requested applications from Respondent and all of
17 its partners, as well as all persons having any financial interests in Respondent. In 2016, the
18 Bureau received applications and supplemental information packages (collectively, 2016
19 Applications) for Ted Kingston and Respondent as follows:

- 20 a. Application for State Gambling License for Ted Kingston, as a limited partner of
- 21 Respondent.
- 22 b. Application for State Gambling License for Ted Kingston, as an officer of the
- 23 Corporation.
- 24 c. Individual Supplemental Information for Ted Kingston.
- 25 d. Individual Supplemental Information for Ted Kingston.
- 26 e. Entity Supplemental Information for Respondent.

27 ⁷ Only the Bureau can bring an Accusation. (Bus. & Prof. Code, § 19930, subd. (b).) A
28 Commission referral necessitates the filing of a Statement of Issues. (Gov. Code, § 11504.)

1 24. In connection with the 2016 Applications, Respondent and Ted Kingston
2 provided information and made representations as follows:

- 3 a. No interest in Respondent had been assigned, pledged, or hypothecated to any
4 individual or entity.
- 5 b. LER Lounge owed Respondent approximately \$1.4 million. Respondent
6 disclosed that LER Lounge was owned by Ted Kingston. Respondent did not
7 provide any documents evidencing, or substantiating, the receivable.
- 8 c. Respondent owed World Enterprises approximately \$3.8 million, which was
9 “collateralized by inventories, land leases, facilities and equipment.” Respondent
10 did not disclose that World Enterprises was familially related to Ted Kingston and
11 Joseph Kingston. Respondent did not disclose World Enterprise’s owners.
- 12 d. Respondent had lease payment obligations exceeding \$320,000 per year as of
13 December 31, 2014, and \$430,000 per year as of December 31, 2013.
14 Respondent did not disclose the lessors under the leases or provide any documents
15 evidencing, or substantiating, the leases. In connection the 1999 Applications,
16 Respondent provided copies of leases, the terms of which expired in 2008.
- 17 e. Respondent’s general partner was the Corporation. Respondent did not disclose
18 the existence of JTI Inc. Respondent did not provide any documents evidencing,
19 or substantiating, JTI Inc.
- 20 f. Respondent’s ownership structure was five percent held by the Corporation and
21 Joseph Kingston and Ted Kingston each held 47.5 percent as limited partners.
22 Other than Ted Kingston’s purportedly inheriting Clyde Elden’s interests,
23 Respondent did not disclose the basis, or approvals, for the ownership structure
24 changes since the 1999 Applications.
- 25 g. The Casino had contracts with World Enterprises and Fidelity Funding, each for a
26 “Contract for Purchase.” Respondent did not disclose that World Enterprises and
27 Fidelity Funding were familially related to Ted Kingston and Joseph Kingston.
28 Respondent did not disclose the owners of World Enterprises and the then owners

1 of Fidelity Funding. Respondent did not provide any documentation, or
2 substantiation, of the contracts for purchase. Respondent had provided
3 information regarding Fidelity Funding's ownership to the Bureau in 2009, after
4 the 2008 Report.

5 h. Ted Kingston's parents were Clyde Elden and Gayle Kingston.

6 i. Clyde Elden Kingston's will directed that all of his assets be given to his wife,
7 Rachel Orlean Young Kingston (Rachel Kingston), who in turn gifted his interests
8 in Respondent to Ted Kingston. Respondent had provided a copy of the will to
9 the Bureau in 2009, after the 2008 Report.

10 j. Joseph Kingston desired to transfer his interests in the Casino to his cousin, Chad
11 Benson. Despite the Bureau's requests, neither Joseph Kingston, Respondent,
12 Ted Kingston, nor any other person provided the transactional documents for the
13 desired transfer to the Bureau.

14 25. In connection with the 2016 Applications, the Bureau requested the following,
15 among other things, from Respondent and its owners:

16 a. Balance sheets and profit and loss statements for the Corporation. Respondent
17 and its owners did not provide any.

18 b. Bank statements for the Corporation and Joseph Kingston. None were provided.

19 c. Applications for license for the Corporation, Joseph Kingston, and any other
20 individuals that have ownership interests in the Casino. None were submitted.

21 d. Supplemental background information for the Corporation and Joseph Kingston.
22 None was provided.

23 e. Transactional documents for the transfer of shares or purchase of card room
24 ownership interests. None were provided.

25 f. Financial information and tax returns through 2015. Returns were not provided
26 for the Corporation and Joseph Kingston.

1 contribute capital to Respondent in his share of Respondent's liabilities exceeding \$3 million.
2 "Final sale [was] contingent upon approval by the California Bureau of Gambling Control."

3 31. On April 19, 2016, Joseph Kingston and Chad Benson signed a Purchase and Sale
4 Agreement relating to a 50-percent ownership interest in "JTI Inc. dba Sahara Dunes
5 Management, Inc." The purchase price was Chad Benson's assumption of Joseph Kingston's
6 "debt responsibilities in JTI, Inc." in the amount of \$8,645.58. "Final sale [was] contingent upon
7 approval by the California Bureau of Gambling Control."

8 32. On April 20, 2016, Chad Benson emailed copies of the agreements described in
9 paragraphs 30 and 31 above, along with a valuation, to Respondent's designated agent and Ted
10 Kingston. The valuation was dated March 26, 2016, and was submitted by Kyle Kingston, CPA.
11 The valuation purportedly was prepared for Respondent's "management to be used . . . in
12 succession planning."

13 33. Prior to this proceeding's filing in 2017, neither the agreements described in
14 paragraphs 30 and 31 above nor the valuation was submitted to the Bureau for review. Prior to
15 this proceeding's filing in 2017, neither the agreements described in paragraphs 30 and 31 above
16 nor the valuation was submitted to the Commission for approval.

17 34. Prior to this proceeding's filing in 2017, neither Respondent, the Corporation, Ted
18 Kingston, Joseph Kingston, nor their designated agent disclosed, or provided, to the Bureau any
19 of the following, among other things:

- 20 a. The terms of any potential transactions between Joseph Kingston and Chad
21 Benson.
- 22 b. The documents relating to the potential transactions between Joseph Kingston and
23 Chad Benson.
- 24 c. Information regarding the debt to be assumed and the identity of the creditors.
- 25 d. An explanation for why the agreements only called for the Bureau's approval and
26 did not comply with the Act.
- 27 e. Any valuation of Joseph Kingston's interests whether performed by an
28 independent entity or person or a familially related entity or person.

1 **THIS PROCEEDING**

2 35. Following the 2016 Report and at its November 17, 2016 meeting, the Commission
3 voted to refer the matter of Respondent’s and its partners’ suitability for licensure to an
4 evidentiary hearing before an administrative law judge at the Office of Administrative Hearings
5 (OAH) in accordance with the provisions of the Administrative Procedure Act (Gov. Code, §
6 11500 et seq.). (Bus. & Prof. Code, §§ 19824 & 19825; Cal. Code. Regs., tit. 4, § 12058.)

7 36. On March 5 and 6, 2019, the Honorable Theresa M. Brehl, OAH Administrative
8 Law Judge, heard the case as pleaded in the Third Amended Statement of Issues. She issued a
9 proposed decision on June 7, 2019. On September 12, 2019, the Commission issued a Decision
10 and Order of Nonadoption of Proposed Decision and Referral to Rehearing (Gov. Code, §
11 11517(c)(2)(D); Cal. Code Regs., tit. 1, §1050) (Referral Order). A true copy of the Referral
12 Order is Exhibit 1 to this Fourth Amended Statement of Issues.

13 **SUMMARY**

14 37. The Act is an exercise of the police power of the State of California intended to
15 protect the public’s health, safety and welfare. It is to be liberally interpreted to effectuate that
16 purpose. (Bus. & Prof. Code, § 19971.) The Act requires strict and comprehensive regulation of
17 all persons, associations, and activities related to the operation of gambling establishments.
18 (Bus. & Prof. Code, § 19801, subd. (h).) The Legislature has declared that the public trust
19 requires comprehensive measures to ensure that gambling is free from criminal and corruptive
20 elements. (Bus. & Prof. Code, § 19801, subds. (g) & (j).) To effectuate this state policy,
21 unsuitable persons are not permitted to associate with gambling establishments. (Bus. & Prof.
22 Code, § 19801, subd. (k).) The Commission’s responsibilities include, without limitation:
23 “Assuring that there is no material involvement, directly or indirectly, with a licensed gambling
24 operation, or the ownership or management thereof, by unqualified or disqualified persons”
25 (Bus. & Prof. Code, § 19823, subd. (a)(2).)

26 38. To protect the public, the Act requires that the owner of a gambling enterprise must
27 apply for and obtain a state gambling license. (Bus. & Prof. Code, § 19851.) If the applicant
28 seeking a state gambling license is a limited partnership, for it to be eligible for licensure, each of

1 its general and limited partners must individually apply for and obtain a state gambling license.
2 (Bus. & Prof. Code, § 19852, subd. (d).) If the applicant is a corporation, for it to be eligible for
3 licensure, each officer, director, and shareholder must individually apply for and obtain a state
4 gambling license. (Bus. & Prof. Code, § 19852, subd. (a).) The failure of a person who is
5 required to submit an application for a state gambling license to submit such an application, and
6 thereafter clearly establish that person’s eligibility for licensure, renders that person disqualified
7 for licensure. (Bus. & Prof. Code, § 19859, subd. (a).)

8 39. The Act also provides that the Commission may require licensing of a lender or
9 holder of indebtedness of the owner who, in the judgment of the Commission, has the power to
10 exercise significant influence over the gambling operation. (Bus. & Prof. Code, § 19852, subd.
11 (i).) The Commission may require registration, a finding of suitability, or licensing of other
12 persons including, for example, owners of the premises or real property used for the card room or
13 who, in the Commission’s judgment, have the power to exercise significant influence over the
14 gambling operation. (Bus. & Prof. Code, § 19853, subd. (a)(2), (6).)

15 40. The Act requires full and true disclosure by applicants “as necessary to carry out the
16 policies of this state relating to licensing, registration, and control of gambling.” (Bus. & Prof.
17 Code, § 19866.) Without disclosure, the Commission cannot assure that “there is no material
18 involvement, directly or indirectly, with a licensed gambling operation, or the ownership or
19 management thereof, by unqualified or disqualified persons.” (Bus. & Prof. Code, § 19823,
20 subd. (a)(2).) Likewise, if disclosure is lacking, the Commission cannot make determinations
21 regarding whether to require a person to register, apply for a finding of suitability, or be licensed.
22 (Bus. & Prof. Code, §§ 19852, subd. (i), 19853, subd. (a).) An applicant’s failure to submit
23 information, documentation and/or assurances required by the Act or requested by the Bureau, or
24 to reveal information material to qualification for licensure, or an applicant’s supplying of untrue
25 or misleading information pertaining to the qualification for licensure, likewise renders an
26 applicant disqualified for licensure. (Bus. & Prof. Code, § 19859, subd. (b).) These failures also
27 make an applicant unqualified for licensure. (Bus. & Prof. Code, § 19857.)
28

1 41. Further, failure of an applicant to comply with the requirements of the Act, and the
2 regulations promulgated thereunder, in the management of a gambling operation and/or
3 establishment makes the applicant unqualified to receive a state gambling license. (Bus. & Prof.
4 Code, §§ 19857, subd. (b), 19920 & 19922.)

5 42. Respondent, as the Casino's sole owner, must apply for and obtain a state gambling
6 license. (Bus. & Prof. Code, § 19851, subd. (a).) Because Respondent is a limited partnership,
7 every partner, general or limited, must individually apply for and obtain a state gambling
8 license.⁸ If all the partners are not licensed or licensable, the partnership cannot be issued or
9 hold a state gambling license. (Bus. & Prof. Code, § 19852, subd. (d).) Therefore, as
10 Respondent's partners, Joseph Kingston, Ted Kingston, and the Corporation, must all be licensed
11 for Respondent to be licensable. Further, because the Corporation is a corporation, Joseph
12 Kingston and Ted Kingston must also be licensed as shareholders, officers, or directors.⁹ (Bus.
13 & Prof. Code, § 19852, subd. (a).) Because of Respondent's ownership structure, Respondent is
14 not eligible to obtain and hold a state gambling license to operate the Casino unless Joseph
15 Kingston and Ted Kingston both apply for and each obtain two licenses, one as Respondent's
16 limited partners, and one as the Corporation's shareholders. Further, Respondent is not eligible
17 to obtain and hold a state gambling license to operate the Casino unless the Corporation applies
18 for and obtains a state gambling license as one of Respondent's partners.¹⁰

19 43. Respondent's management and operation of the Casino under the auspices of its
20 provisional license must comply with the requirements of the Act, and the regulations
21 promulgated thereunder. Failure to do so renders Respondent unqualified for licensure. (Bus. &
22 Prof. Code, §§ 19857, subd. (b), 19920 & 19922.)

23 _____
24 ⁸ Joseph Kingston, Ted Kingston and the Corporation, if licensed, would not be issued
25 separate license certificates. Rather, they would be endorsed upon Respondent's license. (Bus. &
26 Prof. Code, § 19851, subd. (b).)

27 ⁹ If licensed, they would be endorsed under the Corporation's endorsement.

28 ¹⁰ Respondent's ownership structure created by Joseph Kingston and Ted Kingston
appears to extend to other entities about which Respondent has provided limited, if any,
information to the Bureau. (See fn. 3, *supra*.)

1 **BURDEN OF PROOF**

2 44. Respondent has the burden to prove it is qualified to be issued a state gambling
3 license. (Bus. & Prof. Code, § 19856, subd. (a); see also Gov. Code, § 11504.)

4 **FIRST CAUSE FOR DENIAL OF APPLICATION**

5 **(Joseph Kingston, Sahara Dunes Management, Inc., and Respondent – Failure/Refusal To**
6 **Submit Required Applications for Licensure)**

7 45. Respondent cannot be issued a license because, despite repeated requests by the
8 Bureau since late 2015, Joseph Kingston has failed or refused to submit an updated application
9 either as a partner in Respondent or as a shareholder of the Corporation. Prior to 2015, Joseph
10 Kingston did not submit an application as a shareholder of the Corporation. Joseph Kingston’s
11 failures or refusals make him unsuitable and/or disqualified for licensure as a partner of
12 Respondent and as a shareholder of the Corporation. Additionally, despite the Bureau’s requests
13 since late 2015, the Corporation has failed or refused to submit an updated application as
14 Respondent’s general partner. Prior to 2015, the Corporation’s shareholders – Joseph Kingston
15 and Clyde Elden Kingston – failed to submit applications as shareholders. The Corporation’s
16 and its shareholders’ failures and refusals make it unsuitable and/or disqualified for licensure as a
17 partner of Respondent. Further, even though it submitted supplemental information in 2016,
18 Respondent failed to submit an application as requested by the Bureau in and after late 2015.
19 Consequently, Respondent is not eligible for licensure as the information provided in connection
20 with the 1999 Applications is not current or updated.

21 (Bus. & Prof. Code, §§ 19852, subds. (a) & (d); 19856, subd. (c), 19857, subds. (a) & (b), &
22 19859, subds. (a) & (b).)

23 **SECOND CAUSE FOR DENIAL OF APPLICATION**

24 **(Ted Kingston and Respondent – Failure/Refusal To Submit Requested Information)**

25 46. Respondent cannot be issued a license because, despite repeated requests by the
26 Bureau in connection with the 1999 Applications and the 2016 Applications, Ted Kingston and
27 Respondent itself have failed to submit complete applications or respond, in whole or in part, to
28

1 requests by the Bureau for additional information or to correct deficiencies in the documentation
2 that was submitted. Ted Kingston's and Respondent's failures make them unsuitable and/or
3 disqualified for licensure. Consequently, Respondent is not eligible for licensure.
4 (Bus. & Prof. Code §§ 19856, subd. (c), 19857, subds. (a) & (b), & 19859, subds. (a) & (b).)

5 **THIRD CAUSE FOR DENIAL OF APPLICATION**

6 **(Failure To Make Full and True Disclosure)**

7 47. Respondent cannot be issued a license because it and its owners have failed to make
8 full and true disclosure of information as necessary to carry out the state's policies relating to
9 licensing, registration, and control of gambling. Respondent and its owners have failed to reveal
10 facts material to qualification. Beginning with the 1999 Applications and continuing through the
11 2016 Applications, these failures included, among others, the following:

- 12 a. An explanation for, and documents showing, the difference, or inconsistencies,
13 between the amounts of Joseph Kingston's and Clyde Elden Kingston's initial
14 investments in Respondent as represented in the 1999 Applications.
- 15 b. What reductions, if any, were made in the \$3 million financing from Fidelity
16 Funding with respect to the owners' acquisition of Respondent that Ted Kingston
17 disclosed in his 1993 application.
- 18 c. The reasons for and documents relating to changes in Respondent's ownership
19 structure from that represented in the 1999 Applications to that represented in the
20 2016 Applications.
- 21 d. The reasons for and documents relating to Respondent's and its owners'
22 obligations to and from related parties, including among others Fidelity Funding,
23 World Enterprises, and D.U. Company.
- 24 e. The reasons for and documents relating to Respondent's obligations to and from
25 LER Lounge.
- 26 f. The reasons for, documents relating to, and status of Respondent's \$3.46 million
27 obligation to Clyde Elden Kingston as reported in the 1999 Applications.
28

- 1 g. The identities, current ownership, and relationships of parties related to
2 Respondent's owners, including among others Fidelity Funding, World
3 Enterprises, and D.U. Company.
- 4 h. Current documents showing all the transactions between Respondent or its
5 owners, on the one hand, and the parties related to Respondent's owners,
6 including among others Fidelity Funding, World Enterprises, and D.U. Company,
7 on the other.
- 8 i. Specific information, including the exact date and documents, regarding the
9 transfer of Michelle Kingston-Knighton's ownership interest in Respondent to
10 Joseph Kingston.

11 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

12 **(Failure/Refusal To Comply with the Act)**

13 48. Respondent has demonstrated a pattern and practice of an inability or unwillingness
14 to operate the Casino in compliance with the Act and the regulations promulgated thereunder.
15 As an example, since just on or about June 28, 2016, while Respondent knew it was being
16 evaluated for licensure, Respondent operated the Casino in a manner that violated the Act and
17 the regulations promulgated thereunder. Since January 1, 2016, the Bureau has issued to
18 Respondent multiple letters of warning and violation notices detailing many violations in the
19 operation of the Casino, some of which Respondent took months to correct or failed to correct at
20 all. Such management and operation of the Casino make Respondent and Ted Kingston
21 unqualified for licensure.

22 49. Respondent and Ted Kingston failed, and refused, to comply with the Act when
23 Respondent allowed the transfer of, and Ted Kingston accepted, Clyde Elden Kingston's
24 ownership interests without the Commission's prior approval. In 2009, after the 2008 Report,
25 Respondent's designated agent provided the Bureau with a copy of Clyde Elden Kingston's last
26 will and testament, which declared he was married to Rachel Kingston and he had 24 children,
27 including Ted Kingston and Chad Benson. That will devised Clyde Elden Kingston's residual
28 estate to Rachel Kingston. In May 2007, Rachel Kingston instructed and authorized Joseph

1 Kingston to transfer all of her ownership interests in Respondent to Ted Kingston effective June
2 1, 2007. Those purported transactions are void. In May 2009, after the 2008 Report and nearly
3 two years after the purported transfer, Respondent's designated agent "formally" requested the
4 Commission's approval, which never was given. Respondent's and Ted Kingston's failure to
5 comply with the Act show that they are unqualified for licensure.

6 (Bus. & Prof. Code, §§ 19856, subd. (c), 19857, subds. (a) & (b), 19892, subd. (a), 19904.)

7 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

8 **(Bank Secrecy Act Compliance – Threat to the Public Interest)**

9 50. Respondent and Ted Kingston, as its overall manager, lack the general character,
10 integrity, and ability to be associated with controlled gambling. Respondent's activities, habits,
11 and associations pose a threat to the public interest and create the dangers of illegal practices,
12 methods, and activities in carrying on the business of controlled gambling. Respondent has
13 demonstrated a pattern and practice of failing to comply with the United States Bank Secrecy
14 Act (BSA) and the regulations promulgated thereunder.¹¹ Respondent has failed to maintain and
15 implement an adequate and effective anti-money laundering (AML) program at the gambling
16 establishment. (31 U.S.C. § 5318(h)(1); 31 C.F.R. § 1021.210(b)(1).) Respondent has failed to
17 provided adequate oversight with respect to the gambling establishment's BSA and AML
18 compliance. This has created the risk that money laundering and terrorist-financing activities at
19 the gambling establishment will go undetected or unreported. Respondent's acts and omissions
20 include, among other things, the following:

- 21 a. Respondent lacks adequate internal controls with respect to BSA and AML
22 compliance. (31 C.F.R. § 1021.210(b)(2)(i).)
- 23 b. Respondent has failed to implement and update its written policies and procedures
24 contained in the gambling establishment's AML program. (31 C.F.R. §
25 1021.210(b)(1).)

26 ¹¹ A gambling establishment with annual gross gaming revenues in excess of \$1,000,000
27 is considered a financial institution and is required to comply with the BSA, and maintain and
28 implement an adequate and effective anti-money laundering program. (31 U.S.C. § 5312, subds.
(a)(1) & (2)(x).)

- 1 c. Respondent's internal or external testing for BSA and AML compliance was not
2 adequate, was performed sporadically, and lacked sufficient supporting
3 documentation. (31 C.F.R. § 1021.210(b)(2)(ii).)
- 4 d. Respondent has failed to conduct adequate BSA and AML compliance training and
5 has maintained no documentation that it conducted any training. (31 C.F.R. §
6 1021.210(b)(2)(iii).)
- 7 e. Respondent has failed to have a qualified individual or individuals responsible for
8 day-to-day BSA and AML compliance. (31 C.F.R. § 1021.210(b)(2)(iv).)
- 9 f. Respondent has failed to properly record all transactional information required by
10 the BSA and the regulations promulgated thereunder. (31 C.F.R. §
11 1021.210(b)(2)(v)(A).)
- 12 g. Respondent has failed to have an adequate suspicious activity reporting system in
13 place. (31 C.F.R. §§ 1021.210(b)(2)(v)(B), 1021.320.)
- 14 h. Respondent has failed to have an adequate currency transaction reporting system in
15 place. (31. C.F.R. § 1021.311.)
- 16 (Bus. & Prof. Code, §§ 19801, subd. (n), 19856, subd. (c), 19857, subds. (a) & (b), 19920,
17 19924.)

COST RECOVERY

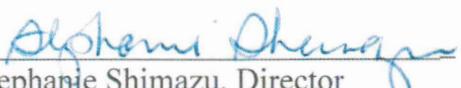
19 51. In the event the administrative law judge recommends that Respondent's and its
20 owners' applications for licensure be denied, Respondent and its owners may, upon the
21 presentation of suitable proof by the Bureau, be ordered to pay the Bureau the reasonable costs
22 of prosecution and enforcement of the case. Costs include both the investigation by the Bureau,
23 and the preparation and prosecution of the case by the Office of the Attorney General. (Bus. &
24 Prof. Code, § 19930, subds. (d) & (f).)

PRAYER

26 WHEREFORE, Complainant requests that following the hearing to be held on the
27 matters herein alleged a decision be issued:
28

- 1 1. Denying Sahara Dunes Casino, LP's, application for a state gambling license and
2 cancelling its provisional license, number GEOW-002466;
- 3 2. Denying Ted Kingston's applications for state gambling licenses;
- 4 3. Requiring Respondent to reimburse the Bureau the reasonable costs of investigating
5 and prosecuting this case, pursuant to Business and Professions Code, section 19930, subdivision
6 (d); and
- 7 4. Taking such other and further action as the Commission may deem appropriate.

8
9 Dated: December 30, 2019


Stephanie Shimazu, Director
Bureau of Gambling Control
California Department of Justice
Complainant

1 **APPENDIX A**

2 1. Business and Professions Code, section 19801, provides, in pertinent part:

3 * * *

4 (g) Public trust that permissible gambling will not endanger public
5 health, safety, or welfare requires comprehensive measures be enacted to
6 ensure that gambling is free from criminal and corruptive elements, that it is
7 conducted honestly and competitively, and that it is conducted in suitable
8 locations.

9 (h) Public trust and confidence can only be maintained by strict and
10 comprehensive regulation of all persons, locations, practices, associations,
11 and activities related to the operation of lawful gambling establishments and
12 the manufacture and distribution of permissible gambling equipment.

13 * * *

14 (j) To ensure that gambling is conducted honestly, competitively,
15 and free of criminal and corruptive elements, all licensed gambling
16 establishments in this state must remain open to the general public and the
17 access of the general public to licensed gambling activities must not be
18 restricted in any manner, except as provided by the Legislature. However,
19 subject to state and federal prohibitions against discrimination, nothing
20 herein shall be construed to preclude exclusion of unsuitable persons from
21 licensed gambling establishments in the exercise of reasonable business
22 judgment.

23 (k) In order to effectuate state policy as declared herein, it is
24 necessary that gambling establishments, activities, and equipment be
25 licensed, that persons participating in those activities be licensed or
26 registered, that certain transactions, events, and processes involving
27 gambling establishments and owners of gambling establishments be subject
28 to prior approval or permission, that unsuitable persons not be permitted to
associate with gambling activities or gambling establishments, and that
gambling activities take place only in suitable locations. Any license or
permit issued, or other approval granted pursuant to this chapter, is declared
to be a revocable privilege, and no holder acquires any vested right therein
or thereunder.

* * *

(n) Records and reports of cash and credit transactions involving
gambling establishments may have a high degree of usefulness in criminal
and regulatory investigations and, therefore, licensed gambling operators
may be required to keep records and make reports concerning significant
cash and credit transactions.

2. Business and Professions Code, section 19811, subdivision (b), provides:

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

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3. Business and Professions Code, section 19823, provides:

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

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

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

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

4. Business and Professions Code, section 19824, provides in part:

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

* * *

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

* * *

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

5. Business and Professions Code, section 19825, provides:

The commission may require that any matter that the commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial, suspension, or revocation of a license, permit, or finding of suitability, be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 or Title 2 of the Government Code.

1 (i) Every employee, agent, guardian, personal representative, lender,
2 or holder of indebtedness of the owner who, in the judgment of the
3 commission, has the power to exercise a significant influence over the
4 gambling operation.

5 9. Business and Professions Code section 19853, subdivision (a), provides:

6 (a) The commission, by regulation or order, may require that the
7 following persons register with the commission, apply for a finding of
8 suitability as defined in subdivision (j) of Section 19805, or apply for a
9 gambling license:

10 (1) Any person who furnishes any services or any property to a
11 gambling enterprise under any arrangement whereby that person
12 receives payments based on earnings, profits, or receipts from
13 controlled gambling.

14 (2) Any person who owns an interest in the premises of a
15 licensed gambling establishment or in real property used by a licensed
16 gambling establishment.

17 (3) Any person who does business on the premises of a
18 licensed gambling establishment.

19 (4) Any person who is an independent agent of, or does
20 business with, a gambling enterprise as a ticket purveyor, a tour
21 operator, the operator of a bus program, or the operator of any other
22 type of travel program or promotion operated with respect to a
23 licensed gambling establishment.

24 (5) Any person who provides any goods or services to a
25 gambling enterprise for compensation that the commission finds to be
26 grossly disproportionate to the value of the goods or services provided.

27 (6) Every person who, in the judgment of the commission, has
28 the power to exercise a significant influence over the gambling
operation.

10. Business and Professions Code section 19856, subdivisions (a) and (c), provide in
part:

(a) . . . The burden of proving his or her qualifications to receive any
license is on the applicant.

* * *

(c) In 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 would be
issued are free from criminal and dishonest elements and would be
conducted honestly.

1 11. Business and Professions Code section 19857, subdivisions (a) and (b), provide:

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

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

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

13 12. Business and Professions Code, section 19859, subdivisions (a) and (b), provide:

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

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

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

23 13. Business and Professions Code section 19866, provides:

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

28 14. Business and Professions Code section 19892, subdivision (a), provides:

The purported sale, assignment, transfer, pledge, or other disposition
of any interest in a partnership or limited liability company that holds a
gambling license, or the grant of an option to purchase the interest, is void
unless approved in advance by the commission.

15. Business and Professions Code section 19920, provides:

It is the policy of the State of California to require that all
establishments wherein controlled gambling is conducted in this state be
operate in a manner suitable to protect the public health, safety, and general
welfare of the residents of the state. The responsibility for the employment
and maintenance of suitable methods of operation rests with the owner
licensee, and willful or persistent use or toleration of methods of operation

1 deemed unsuitable by the commission or by local government shall
2 constitute grounds for license revocation or other disciplinary action.

3 16. Business and Professions Code section 19904, provides:

4 The purported sale, assignment, transfer, pledge, or other disposition
5 of any security issued by a corporation that holds a gambling license, or the
6 grant of an option to purchase that security, is void unless approved in
7 advance by the commission.

8 17. Business and Professions Code section 19922, provides:

9 No owner licensee shall operate a gambling enterprise in violation of
10 this chapter or any regulation adopted pursuant to this chapter.

11 18. Business and Professions Code section 19924, provides:

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

15 19. Business and Professions Code section 19930, subdivisions (b), (d) and (f), provide in
16 pertinent part:

17 (b) If, after any investigation, the department is satisfied that a
18 license, permit, finding of suitability, or approval should be suspended or
19 revoked, it shall file an accusation with the commission in accordance with
20 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
21 2 of the Government Code.

22 * * *

23 (d) In any case in which the administrative law judge recommends
24 that the commission . . . deny a license, the administrative law judge may,
25 upon the presentation of suitable proof, order the licensee or applicant for a
26 license to pay the department the reasonable costs of the investigation and
27 prosecution of the case . . .

28 * * *

(f) For purposes of this section, “costs” include costs incurred for
any of the following:

(1) The investigation of the case by the department.

(2) The preparation and prosecution of the case by the Office
of the Attorney General.

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20. Business and Professions Code section 19971, provides:

This act is an exercise of the police powers of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes.

21. Government Code, section 11504, provides in pertinent part:

A hearing to determine whether a right, authority, license, or privilege should be granted, issued, or renewed shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing, and in addition, any particular matters that have come to the initiating party and would authorize a denial of the agency sought action. . . .

22. Government Code, section 11517, subdivision (c), provides in pertinent part:

(2) Within 100 days of receipt by the agency of the administrative law judge’s proposed decision, the agency may act as prescribed in subparagraphs (A) to (E), inclusive. If the agency fails to act as prescribed in subparagraphs (A) to (E), inclusive, within 100 days of receipt of the proposed decision, the proposed decision shall be deemed adopted by the agency. The agency may do any of the following:

(A) Adopt the proposed decision in its entirety.

(B) Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision.

(C) Make technical or other minor changes in the proposed decision and adopt it as the decision. Action by the agency under this paragraph is limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision.

(D) Reject the proposed decision and refer the case to the same administrative law judge if reasonably available, otherwise to another administrative law judge, to take additional evidence. If the case is referred to an administrative law judge pursuant to this subparagraph, he or she shall prepare a revised proposed decision, as provided in paragraph (1), based upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the revised proposed decision shall be furnished to each party and his or her attorney as prescribed in this subdivision.

23. California Code of Regulations, title 1, section 1050, provides:

(a) An agency referral of a Case to OAH for rehearing or reconsideration pursuant to sections 11517(c)(2)(D) or 11521(b) shall be filed in the OAH regional office that issued the proposed decision. The referral shall be in writing, directed to the Presiding Judge, and shall contain the following:

1 (1) Information as required in Regulation 1018, except for
2 Hearing dates if no Hearing is requested;

3 (2) The name of the ALJ who prepared the proposed decision;

4 (3) A copy of any agency order or decision for rehearing or
5 reconsideration and the proof of Service of the order or decision on all
6 parties; and

7 (4) The evidence or issues to be considered on rehearing or
8 reconsideration.

9 (b) The agency shall lodge the record in the Case, including the
10 transcript, exhibits, and other papers that are part of the record, with OAH
11 promptly after the agency has received it. If the agency has not lodged the
12 complete record at least 15 days before the scheduled Hearing in the Case, it
13 shall provide written notice thereof to OAH and all other parties.

14 24. California Code of Regulations, title 4, section 12058, provides:

15 (a) When the Commission elects to hold an APA hearing the
16 Commission shall determine whether the APA hearing will be held before
17 an Administrative Law Judge sitting on behalf of the Commission or before
18 the Commission itself with an Administrative Law Judge presiding in
19 accordance with Government Code section 11512. Notice of the APA
20 hearing shall be provided to the applicant pursuant to Government Code
21 section 11500 et seq.

22 (b) The burden of proof is on the applicant to prove his, her, or its
23 qualifications to receive any license or other approval under the Act.

24 (c) A Statement of Issues shall be prepared and filed according to
25 Government Code section 11504 by the complainant.

26 (d) At the conclusion of the evidentiary hearing, when the
27 Commission is hearing the matter, the members of the Commission shall
28 take the matter under submission, may discuss the matter in a closed session
meeting, may leave the administrative record open in order to receive
additional evidence as specified by the Commission, and may schedule
future closed session meetings for deliberation.

(e) The evidentiary hearing shall proceed as indicated in the notice,
unless and until the Executive Director or Commission approves
cancellation or a continuance.

24 25. California Code of Regulations, title 11, section 2141 provides:

25 (a) A provisional license is held subject to the same conditions,
26 restrictions, and limitations on the authorization granted by the predecessor
annual or conditional registration.

27 (b) A provisional license is held subject to all terms and conditions
28 under which a state gambling license is held pursuant to the Act.

1 (c) A provisional license creates no vested right to the issuance of a
2 state gambling license.

3 26. Title 31 United States Code section 5312 provides in relevant part:

4 (a) In this subchapter—

5 (1) “financial agency” means a person acting for a person
6 (except for a country, a monetary or financial authority acting as a
7 monetary or financial authority, or an international financial institution
8 of which the United States Government is a member) as a financial
9 institution, bailee, depository trustee, or agent, or acting in a similar
10 way related to money, credit, securities, gold, or a transaction in
11 money, credit, securities, or gold.

12 (2) “financial institution” means—

13 * * *

14 (X) a casino, gambling casino, or gaming establishment
15 with an annual gaming revenue of more than \$1,000,000
16 which—

17 (i) is licensed as a casino, gambling casino, or
18 gaming establishment under the laws of any State or any
19 political subdivision of any State; or

20 (ii) is an Indian gaming operation conducted under
21 or pursuant to the Indian Gaming Regulatory Act other than
22 an operation which is limited to class I gaming (as defined
23 in section 4(6) of such Act);

24 27. Title 31 United States Code section 5318(h)(1) provides:

25 (h) Anti-Money Laundering Programs.—

26 (1) In general.—In order to guard against money laundering
27 through financial institutions, each financial institution shall establish
28 anti-money laundering programs, including, at a minimum—

(A) the development of internal policies, procedures,
and controls;

(B) the designation of a compliance officer;

(C) an ongoing employee training program; and

(D) an independent audit function to test programs.

1 28. 31 Code of Federal Regulations section 1021.210 provides:

2 (a) *Requirements for casinos.* A casino shall be deemed to satisfy
3 the requirements of 31 U.S.C. 5318(h)(1) if it implements and maintains a
4 compliance program described in paragraph (b) of this section.

5 (b) *Compliance programs.*

6 (1) Each casino shall develop and implement a written program
7 reasonably designed to assure and monitor compliance with the
8 requirements set forth in 31 U.S.C. chapter 53, subchapter II and the
9 regulations contained in this chapter.

10 (2) At a minimum, each compliance program shall provide for:

11 (i) A system of internal controls to assure ongoing
12 compliance;

13 (ii) Internal and/or external independent testing for
14 compliance. The scope and frequency of the testing shall be
15 commensurate with the money laundering and terrorist financing
16 risks posed by the products and services provided by the casino;

17 (iii) Training of casino personnel, including training in the
18 identification of unusual or suspicious transactions, to the extent
19 that the reporting of such transactions is required by this chapter,
20 by other applicable law or regulation, or by the casino's own
21 administrative and compliance policies;

22 (iv) An individual or individuals to assure day-to-day
23 compliance;

24 (v) Procedures for using all available information to
25 determine:

26 (A) When required by this chapter, the name,
27 address, social security number, and other information, and
28 verification of the same, of a person;

(B) The occurrence of any transactions or patterns
of transactions required to be reported pursuant to §
1021.320;

(C) Whether any record as described in subpart D of
part 1010 of this chapter or subpart D of this part 1021
must be made and retained; and

(vi) For casinos that have automated data processing
systems, the use of automated programs to aid in assuring
compliance.

1 29. 31 Code of Federal Regulations section 1021.311 provides:

2 Each casino shall file a report of each transaction in currency,
3 involving either cash in or cash out, of more than \$10,000.

4 (a) Transactions in currency involving cash in include, but are not
5 limited to:

6 (1) Purchases of chips, tokens, and other gaming instruments;

7 (2) Front money deposits;

8 (3) Safekeeping deposits;

9 (4) Payments on any form of credit, including markers and
10 counter checks;

11 (5) Bets of currency, including money plays;

12 (6) Currency received by a casino for transmittal of funds
13 through wire transfer for a customer;

14 (7) Purchases of a casino's check;

15 (8) Exchanges of currency for currency, including foreign
16 currency; and

17 (9) Bills inserted into electronic gaming devices.

18 (b) Transactions in currency involving cash out include, but are not
19 limited to:

20 (1) Redemptions of chips, tokens, tickets, and other gaming
21 instruments;

22 (2) Front money withdrawals;

23 (3) Safekeeping withdrawals;

24 (4) Advances on any form of credit, including markers and
25 counter checks;

26 (5) Payments on bets;

27 (6) Payments by a casino to a customer based on receipt of
28 funds through wire transfers;

(7) Cashing of checks or other negotiable instruments;

(8) Exchanges of currency for currency, including foreign
currency;

(9) Travel and complimentary expenses and gaming incentives;
and

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(10) Payment for tournament, contests, and other promotions.

(c) Other provisions of this chapter notwithstanding, casinos are exempted from the reporting obligations found in this section and § 1021.313 for the following transactions in currency or currency transactions:

(1) Transactions between a casino and a dealer in foreign exchange, or between a casino and a check cashier, as those terms are defined in § 1010.100(ff) of this chapter, so long as such transactions are conducted pursuant to a contractual or other arrangement with a casino covering the financial services in paragraphs (a)(8), (b)(7), and (b)(8) of this section;

(2) Cash out transactions to the extent the currency is won in a money play and is the same currency the customer wagered in the money play, or cash in transactions to the extent the currency is the same currency the customer previously wagered in a money play on the same table game without leaving the table;

(3) Bills inserted into electronic gaming devices in multiple transactions (unless a casino has knowledge pursuant to § 1021.313 in which case this exemption would not apply); and

(4) Jackpots from slot machines or video lottery terminals.

30. 31 Code of Federal Regulations section 1021.320 provides:

(a) General.

(1) Every casino shall file with FinCEN, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A casino may also file with FinCEN, by using the form specified in paragraph (b)(1) of this section, or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section.

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through a casino, and involves or aggregates at least \$ 5,000 in funds or other assets, and the casino knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation;

1 (ii) Is designed, whether through structuring or other
2 means, to evade any requirements of this chapter or of any other
regulations promulgated under the Bank Secrecy Act;

3 (iii) Has no business or apparent lawful purpose or is not
4 the sort in which the particular customer would normally be
5 expected to engage, and the casino knows of no reasonable
6 explanation for the transaction after examining the available
7 facts, including the background and possible purpose of the
transaction; or

8 (iv) Involves use of the casino to facilitate criminal
9 activity.

10 (b) Filing procedures

11 (1) What to file. A suspicious transaction shall be reported by
12 completing a Suspicious Activity Report ("SAR"), and collecting and
13 maintaining supporting documentation as required by paragraph (d) of
14 this section.

15 (2) Where to file. The SAR shall be filed with FinCEN in a
16 central location, to be determined by FinCEN, as indicated in the
17 instructions to the SAR.

18 (3) When to file. A SAR shall be filed no later than 30
19 calendar days after the date of the initial detection by the casino of
20 facts that may constitute a basis for filing a SAR under this section. If
21 no suspect is identified on the date of such initial detection, a casino
22 may delay filing a SAR for an additional 30 calendar days to identify a
23 suspect, but in no case shall reporting be delayed more than 60
24 calendar days after the date of such initial detection. In situations
25 involving violations that require immediate attention, such as ongoing
26 money laundering schemes, the casino shall immediately notify by
27 telephone an appropriate law enforcement authority in addition to
28 filing timely a SAR. Casinos wishing voluntarily to report suspicious
transactions that may relate to terrorist activity may call FinCEN's
Financial Institutions Hotline at 1-866-556-3974 in addition to filing
timely a SAR if required by this section.

(c) Exceptions. A casino is not required to file a SAR for a robbery
or burglary committed or attempted that is reported to appropriate law
enforcement authorities.

(d) Retention of records. A casino shall maintain a copy of any SAR
filed and the original or business record equivalent of any supporting
documentation for a period of five years from the date of filing the SAR.
Supporting documentation shall be identified as such and maintained by the
casino, and shall be deemed to have been filed with the SAR. A casino shall
make all supporting documentation available to FinCEN or any Federal,
State, or local law enforcement agency, or any Federal regulatory authority
that examines the casino for compliance with the Bank Secrecy Act, or any
State regulatory authority administering a State law that requires the casino

1 to comply with the Bank Secrecy Act or otherwise authorizes the State
2 authority to ensure that the casino complies with the Bank Secrecy Act, or
3 any tribal regulatory authority administering a tribal law that requires the
4 casino to comply with the Bank Secrecy Act or otherwise authorizes the
5 tribal regulatory authority to ensure that the casino complies with the Bank
6 Secrecy Act, upon request.

7 (e) Confidentiality of SARs. A SAR, and any information that would
8 reveal the existence of a SAR, are confidential and shall not be disclosed
9 except as authorized in this paragraph (e). For purposes of this paragraph
10 (e) only, a SAR shall include any suspicious activity report filed with
11 FinCEN pursuant to any regulation in this chapter.

12 (1) Prohibition on disclosures by casinos

13 (i) General rule. No casino, and no director, officer,
14 employee, or agent of any casino, shall disclose a SAR or any
15 information that would reveal the existence of a SAR. Any
16 casino, and any director, officer, employee, or agent of any
17 casino that is subpoenaed or otherwise requested to disclose a
18 SAR or any information that would reveal the existence of a
19 SAR, shall decline to produce the SAR or such information,
20 citing this section and 31 U.S.C. 5318(g)(2)(A)(i), and shall
21 notify FinCEN of any such request and the response thereto.

22 (ii) Rules of Construction. Provided that no person
23 involved in any reported suspicious transaction is notified that
24 the transaction has been reported, this paragraph (e)(1) shall not
25 be construed as prohibiting:

26 (A) The disclosure by a casino, or any director,
27 officer, employee, or agent of a casino, of:

28 (1) A SAR, or any information that would
29 reveal the existence of a SAR, to FinCEN or any
30 Federal, State, or local law enforcement agency, or
31 any Federal regulatory authority that examines the
32 casino for compliance with the Bank Secrecy Act, or
33 any State regulatory authority administering a State
34 law that requires the casino to comply with the Bank
35 Secrecy Act or otherwise authorizes the State
36 authority to ensure that the casino complies with the
37 Bank Secrecy Act, or any tribal regulatory authority
38 administering a tribal law that requires the casino to
39 comply with the Bank Secrecy Act or otherwise
40 authorizes the tribal regulatory authority to ensure
41 that casino complies with the Bank Secrecy Act; or

42 (2) The underlying facts, transactions, and
43 documents upon which a SAR is based, including but
44 not limited to, disclosures to another financial
45 institution, or any director, officer, employee, or
46 agent of a financial institution, for the preparation of a
47 joint SAR.

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(B) The sharing by a casino, or any director, officer, employee, or agent of the casino, of a SAR, or any information that would reveal the existence of a SAR, within the casino's corporate organizational structure for purposes consistent with Title II of the Bank Secrecy Act as determined by regulation or in guidance.

(2) Prohibition on disclosures by government authorities. A Federal, State, local, territorial, or Tribal government authority, or any director, officer, employee, or agent of any of the foregoing, shall not disclose a SAR, or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act (BSA). For purposes of this section, "official duties" shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for disclosure of non-public information or a request for use in a private legal proceeding, including a request pursuant to 31 CFR 1.11.

(f) Limitation on liability. A casino, and any director, officer, employee, or agent of any casino, that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this section or any other authority, including a disclosure made jointly with another institution, shall be protected from liability to any person for any such disclosure, or for failure to provide notice of such disclosure to any person identified in the disclosure, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(g) Compliance. Casinos shall be examined by FinCEN or its delegates for compliance with this section. Failure to satisfy the requirements of this section may be a violation of the Bank Secrecy Act and of this chapter.

(h) Applicability date. This section applies to transactions occurring after March 25, 2003.

EXHIBIT 1

Decision and Order of Nonadoption of Proposed Decision and Referral to Rehearing

(Gov. Code, § 11517(c)(2)(D); Cal. Code Regs., tit. 1, §1050)

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Third Amended Statement
of Issues Regarding:

SAHARA DUNES CASINO, LP,
Provisional License Number GEOW-002466;
the sole owner of, and doing business as,
LAKE ELSINORE HOTEL AND CASINO;

Partners of Sahara Dunes Casino, LP:
Ted Kingston,
Joseph Kingston, and
Sahara Dunes Management, Inc.

Shareholders of Sahara Dunes
Management, Inc.:
Ted Kingston, and
Joseph Kingston,

Respondent

OAH No. 2017070210

BGC Case No. BGC-HQ2017-00001SL

**DECISION AND ORDER OF
NONADOPTION OF PROPOSED
DECISION AND REFERRAL FOR
REHEARING. (Gov. Code § 11517(c)(2)(D);
Cal. Code. Regs., tit. 1, § 1050)**

**DECISION AND ORDER OF NONADOPTION OF PROPOSED DECISION AND
REFERRAL FOR REHEARING**

To the Honorable Presiding Administrative Law Judge Donald P. Cole

1. Attached is a copy of the June 7, 2019 Proposed Decision of the Honorable Administrative Law Judge Theresa M. Brehl (Proposed Decision) in the above-titled matter submitted to the California Gambling Control Commission (Commission) under the provisions of Government Code section 11517 along with the copy of the proof of service. You are advised that the Commission considered, but did not adopt, this Proposed Decision and that the Commission hereby refers the matter back to Administrative Law Judge Brehl, if reasonably available, for consideration of additional evidence and related issues identified below in accordance with Government Code section 11517(c)(2)(D) and California Code of Regulations, title 1, section 1050.

1 2. As the Bureau of Gambling Control (Bureau), with representation from the Attorney
2 General’s office, served as the complainant in the above-titled hearing, the Commission hereby
3 requests the Bureau comply with the requirements of California Code of Regulations, title 1,
4 section 1018 in presenting this referred rehearing in compliance with California Code of
5 Regulations, title 1, section 1050(a)(1).

6 3. The Commission cannot adopt the Proposed Decision because the evidence is simply
7 not sufficient to determine whether the applicants are suitable – or not – to conduct controlled
8 gambling in California. While the Proposed Decision determined that Joseph Kingston’s failure to
9 submit information to the Bureau was sufficient grounds for licensure denial, it did not address
10 questions of suitability of all parties involved. Moreover no evidence or argument was offered
11 about any material involvement, directly or indirectly, with the gambling operation or ownership
12 or management of it, by other unqualified or disqualified persons. The evidence requested below
13 is necessary to determine suitability under Business and Professions Code section 19856, 19857,
14 and 19859.

15 4. To that end, during the rehearing of the above-titled matter, the Commission
16 specifically requests consideration of the following evidence and issues:

17
18 **TRANSACTIONS**

19 1) Evidence regarding transactions concerning Clyde Kingston, Rachel Kingston, and Ted
20 Kingston including without limit:

21 a. How was Clyde Kingston’s interests in Sahara Dunes Casino, LP (SDC) and
22 Sahara Dunes Casino Management, Inc./JTI, Inc. (SDM) “inherited, or otherwise
23 acquired” by Ted Kingston as described in the stipulation between the parties,
24 Exhibit 62, page 4, line 16?

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26 b. When, how, and why did these alleged transactions occur?
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- c. Did any regulator, ostensibly, approve these transactions and provide documentation of those approvals?
- d. Documents concerning these transactions and any approvals.
- e. Provide the letter from Keith Sharp, DA for SDC, from 2009 requesting the Commission agendize the transaction from Clyde Kingston to Ted Kingston and documents related there to. Include any responses or other correspondence, if any, from other parties regarding this request.
- f. Don't these purported transactions concerning ownership in SDC and SDM require *prior* Commission approval under Business and Professions Code sections 19892 and 19904 or else are void?
- g. Whether other parties must submit applications for licensure and what transactions still need to be approved because the Commission has not approved these transfers in SDC and SDM?
- h. Can the Commission retroactively approve these possible transfers in SDC and SDM under Business and Professions Code sections 19892 and 19904 in light of the alleged ownership in the above-titled hearing?

- 2) Evidence concerning transactions between Joseph Kingston and Chad Benson and the impact on SDC's potential suitability including without limit:
 - a. Provide all evidence and documentation regarding the valuation of Joseph Kingston's ownership interest in SDC and SDM and the alleged debts the

1 purported Buyer would be assuming under the transaction

- 2
- 3 b. Do the proposed transactions comply with the Gambling Control Act (Act)?
- 4
- 5 c. Who is providing the funds, financing, or debt for the transactions and what are the
- 6 sources of funds?
- 7
- 8 d. What are potential conditions that might be appropriate to impose on the
- 9 transactions?
- 10
- 11 e. Does the Bureau have any issues or concerns with the proffered transactions?
- 12
- 13 f. Are there any concerns or conflicts of interests with the alleged valuation of SDC
- 14 and SDM as performed by Kyle Kingston, CPA for Mitchell and Associates,
- 15 including but not limited to any possible familial relationship to Joseph Kingston
- 16 or Chad Benson or other parties with potential interests in this transaction or
- 17 Casino revenues?
- 18
- 19 g. Was the valuation by Kyle Kingston performed at arm's length and who was it
- 20 performed for?
- 21

22 **SDC'S PROVISIONAL LICENSE**

- 23 3) Evidence regarding SDC's provisional license since it was initially awarded to present,
- 24 and the application of Senate Bill 8, Chapter 867, Section 62 to the provisional license's
- 25 current and continuing validity including without limit:.
- 26
- 27
- 28

- 1 a. Whether, based upon Senate Bill 8, Chapter 867, Section 62(b)(3), the provisional
2 license is rendered *invalid* upon final action on SDC's original 1999 application?
3
4 b. Whether, under Senate Bill 8, Chapter 867, Sec 62(b)(3), a provisional license can
5 remain valid where the Commission denies the underlying 1999 applications but
6 stays that denial for a finite or indeterminate period?
7

8 **BUREAU BACKGROUND INVESTIGATIONS**

- 9 4) Evidence regarding the applications for Joseph Kingston, Ted Kingston, Clyde Kingston,
10 SDC, and SDM submitted in or around 1999.
11
12 5) Evidence regarding Joseph Kingston, Ted Kingston, Clyde Kingston, SDC, and SDM's
13 applications from or around 1999 including without limit:
14 a. Were the 1999 applications complete when submitted to the state?
15
16 b. Were there any deficiencies in the 1999 applications rendering them incomplete
17 that needed to be addressed by SDC and whether those deficiencies still remain
18 today?
19
20 6) The Bureau's complete background investigation reports from or around 2009 concerning
21 the 1999 applications for Joseph Kingston, Ted Kingston, Clyde Kingston, SDC, and
22 SDM.
23
24 7) Evidence regarding the Bureau's background investigations from or around 2009
25 concerning Joseph Kingston, Ted Kingston, Clyde Kingston, SDC, and SDM's
26 applications including without limit, the alleged:
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- a. Failure to disclose required information;
- b. Failure to maintain adequate records;
- c. Use of inappropriate accounting methods;
- d. Failure to notify the Commission of transfers of ownership interest; and
- e. Continued employment of a key employee with a felony conviction.

8) Evidence regarding the Bureau’s 2016 Bureau Report including without limit:

- a. Allegations that the applicants committed numerous violations of the Act and the regulations promulgated thereunder in the operation and management of the Casino.

9) Evidence regarding Ted Kingston’s current potential suitability including without limit:

- a. Financial records previously redacted in the administrative record.
- b. Any financial arraignments and or transactions with the named applicants and affiliates or interested parties.
- c. Evidence related to Ted Kingston’s alleged failure to provide information requested by the Bureau in or around 2016.
- d. Whether Ted Kingston has a spouse with a financial interest, including for instance a community property interest, in SDC or SDM and whether they require licensure?

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1 10) Evidence concerning SDC's suitability including without limit:

- 2 a. Financial records previously redacted in the administrative record.
- 3
- 4 b. Evidence concerning the operation of Lake Elsinore Hotel and Casino in or out of
- 5 compliance with the Act including any supporting documentation for the Letters of
- 6 Warning identified in the 2016 Bureau Report including, but not limited to,
- 7 compliance checklists.
- 8
- 9 c. Concerns raised in the 2009 Bureau Report and 2016 Bureau Report.
- 10
- 11 d. Financial arraignments, transactions or agreements with the applicants and
- 12 affiliates.
- 13

14 11) Evidence concerning SDM's suitability including without limit:

- 15 a. Evidence concerning the operation of Lake Elsinore Hotel and Casino in or out of
- 16 compliance with the Act including any supporting documentation for the letters of
- 17 warning identified in the 2016 Bureau Report including, but not limited to,
- 18 compliance checklists.
- 19
- 20 b. Documents or statements related to the concerns raised in the 2009 Bureau Report
- 21 and 2016 Bureau Report.
- 22
- 23 c. Financial records previously redacted in the administrative record.
- 24
- 25 d. Evidence regarding the fictitious business name change to JTI, Inc. and the alleged
- 26 failure to notify the Bureau and Commission by Joseph Kingston and Ted
- 27 Kingston and any other parties.
- 28

1 e. Include any financial arraignments and or transactions with the named applicants
2 and affiliates.

3

4 12) Evidence regarding Chad Benson's individual suitability, as it relates to the proposed
5 transaction, and his involvement with SDC including without limit:

6 a. Has the Bureau performed a background investigation on Chad Benson?

7

8 b. Has the Bureau identified any issues or concerns with Chad Benson's application?

9

10 c. Has the Bureau identified any concerns with Chad Benson's financial history or
11 suitability?

12

13 d. Does Chad Benson have a spouse who would have a financial interest, including
14 for instance a community property interest, in SDC or SDM that requires
15 licensure?

16

17 e. Include any financial arraignments and or transactions with the named applicants
18 and affiliates.

19

20 13) Relevant issues concerning the above items 5) - 13).

21 a. Whether Joseph Kingston, Ted Kingston, SDC, and SDM and any other parties
22 must submit new applications in light of the Commission not yet taking final
23 action on the 1999 applications?

24

25 b. Has the Commission or Bureau ever required new applications when the
26 Commission has not acted on prior applications and where those prior applications

27

28

1 remain pending?

- 2
- 3 c. Whether the Commission is required to act on the 1999 applications (i.e. approve,
4 approve with conditions, deny, or abandon) before considering subsequent
5 applications?
- 6

7 **OTHER POTENTIAL APPLICANTS**

8 14) Are there any other individuals or entities that have or may exert significant influence
9 over SDC, SDM, Joseph Kingston, or Ted Kingston including but not limited to:

- 10
- 11 a. Michelle Kingston-Knighton;
- 12
- 13 b. Rachel Kingston;
- 14
- 15 c. Individuals with a criminal record, such as the previously identified key employee
16 with a criminal record; and
- 17
- 18 d. Any others such as family members, spouses, or affiliates in this jurisdiction or in
19 other jurisdictions?
- 20

21 **POSSIBLE PARTIAL FINAL ACTION RELATED TO JOSEPH KINGSTON**

22 15) Whether the Commission can deny Joseph Kingston a license and allow him to divest his
23 interest as a partner and a shareholder under Business and Professions Code section 19882
24 and 19892 while simultaneously approving SDC, SDM, and Ted Kingston a license?

25

26 16) Whether Business and Professions Code section 19852 means that SDC, SDM, and Ted
27 Kingston are also subject to denial because of Joseph Kingston's stated desires, or can
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they be separately approved under Business and Professions Code section 19882 and 19892 if Joseph Kingston is denied licensure?

17) Can the Commission separately act to deny Joseph Kingston a license as a partner for SDC and a shareholder for SDM and then allow Joseph Kingston to divest his interest under Business and Professions Code sections 19882 and 19892 while refraining from taking action on the other applicants and a new owner is found?

18) If transactions are approved between Joseph Kingston and Chad Benson or another party, can the Commission consider the new owner as part of the above-titled evidentiary hearing or would this require a separate Commission meeting or evidentiary hearing?

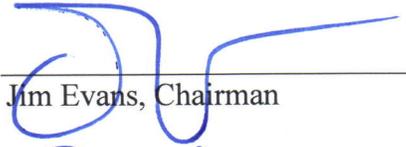
19) Can this possible separate Commission meeting or evidentiary hearing occur before the conclusion of the above-titled matter?

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This Decision and Order is effective immediately.

Dated: 9/12/19

Signature: 
Jim Evans, Chairman

Dated: 9/12/19

Signature: 
Paula LaBrie, Commissioner

Dated: 9/12/19

Signature: 
Gareth Lacy, Commissioner

Dated: 9/12/19

Signature: 
Trang To, Commissioner

1 DECLARATION OF SERVICE

2 Case Name: **Fourth Amended Statement of Issues Against: Sahara Dunes Casino, LP, dba**
3 **Lake Elsinore Hotel and Casino**

4 Case No.: **OAH # 2017070210**

5 I declare:

6 I am employed in the Office of the Attorney General, which is the office of a member of the
7 California State Bar, at which member's direction this service is made. I am 18 years of age or
8 older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box
9 944255, Sacramento, CA 94244-2550.

10 On December 31, 2019, I caused to be served the attached **FOURTH AMENDED**
11 **STATEMENT OF ISSUES** by transmitting a true copy via electronic mail, addressed as follows:

12 Stephen L. Schreiner
13 Solomon Ward Seidenwurm & Smith LLP
14 401 B Street, Suite 1200
15 San Diego, CA 92101
16 sschreiner@swsslw.com

17 I declare under penalty of perjury under the laws of the State of California the foregoing is true
18 and correct and that this declaration was executed on December 31, 2019, at Sacramento,
19 California.

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Linda Thorpe
Declarant

Linda Thorpe
Signature