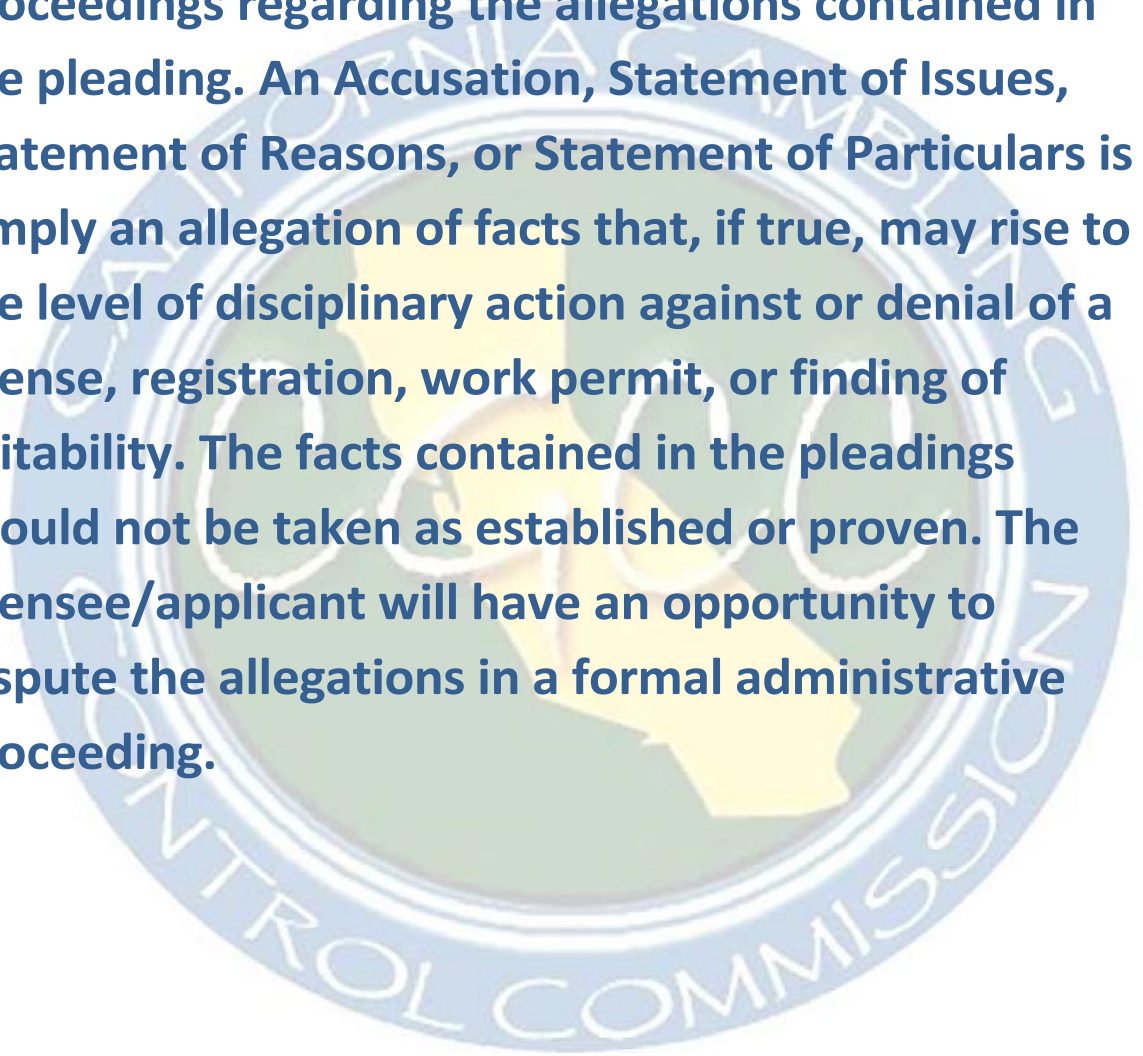


**The Commission is providing a copy of this pleading (Accusation, or Statement of Reasons, Statement of Particulars, or Statement of Issues) so the public is as informed as possible of pending administrative proceedings regarding the allegations contained in the pleading. An Accusation, Statement of Issues, Statement of Reasons, or Statement of Particulars 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.**

The seal of the California State Board of Accountancy is visible in the background. It is a circular emblem with a blue outer ring containing the text "CALIFORNIA STATE BOARD OF ACCOUNTANCY" at the top and "CONTROL COMMISSION" at the bottom. The center of the seal features a yellow map of California superimposed on a green background.

**RECEIVED**

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10  
11 **BEFORE THE**  
12 **CALIFORNIA GAMBLING CONTROL COMMISSION**  
13 **STATE OF CALIFORNIA**

14  
15 **In the Matter of the Fifth Amended Statement of**  
16 **Issues Regarding:**

17 **SAHARA DUNES CASINO, LP**, provisional license  
number GEOW-002466; sole owner of, and doing  
18 business as, **Lake Elsinore Hotel and Casino**;

19 Partners of Sahara Dunes Casino, LP:  
Ted Kingston,  
Joseph Kingston's Successor(s) in Interest, and  
20 Sahara Dunes Management, Inc.  
Shareholders of Sahara Dunes Management, Inc.:  
21 Ted Kingston, and  
Joseph Kingston's Successor(s) in Interest.

22 20930 Malaga Road  
23 Lake Elsinore, California 92530

24 **Respondent.**

**BGC No. BGC-HQ2017-00001SL**

**OAH No: 2017070210**

**CORRECTED**

**FIFTH 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 official  
4 capacity as the Director of the California Department of Justice, Bureau of Gambling Control  
5 (Bureau). Nathan DaValle brought a First Amended Statement of Issues solely in his official  
6 capacity as the Bureau's Acting Director. In her official capacity as former Director of the  
7 Bureau, Stephanie Shimazu brought a Second Amended Statement of Issues, a Third Amended  
8 Statement of Issues, and a Fourth Amended Statement of Issues. Yolanda Morrow  
9 (Complainant) now brings this Fifth Amended Statement of Issues solely in her official capacity  
10 as the Bureau's Director.

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

14 3. Sahara Dunes Casino, LP (Respondent), provisional license number GEOW-  
15 002466, is the sole owner of, and doing business as, the Casino.

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

18 5. While living, Joseph Kingston<sup>2</sup> was a limited partner, LIS record number GEOW-  
19 002464, purported to own a 47.5-percent partnership interest in Respondent. Joseph Kingston  
20 contracted to sell his interest to Chad Benson. Prior to this proceeding's filing, no contract or  
21 agreement (further described in paragraphs 30 and 31 below) was submitted to the Bureau for  
22 review. Respondent has not provided information regarding the identity of Joseph Kingston's  
23 successor(s) in interest in the partnership following his death.

24  
25 <sup>1</sup> LIS is an automated record-tracking system in which all of an applicant for licensure's  
26 information, and files related thereto, are kept. In this case, which involves a provisional license,  
27 the LIS record number is a tracking number that is unique to each of the applicants and his or its  
28 application.

<sup>2</sup> After filing the Fourth Amended Statement of Issues, the Bureau learned that Joseph  
Kingston died.

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

4           7. Ted Kingston, LIS record number GEOW-003733, owns 50-percent of the shares of  
5 the Corporation.

6           8. While living, Joseph Kingston owned the remaining 50-percent of the shares of the  
7 Corporation. Joseph Kingston had not been issued a LIS record number as a shareholder of the  
8 Corporation.<sup>3</sup> Respondent has not provided information regarding the identity of Joseph  
9 Kingston's successor(s) in interest in the Corporation following his death.

10          9. Respondent has represented that its current ownership structure is as  
11 follows:<sup>4</sup>

12           Respondent – 100 percent owner of the Casino:

13               Partners of Respondent:

14                   Limited Partner – Ted Kingston – 47.5-percent owner

15                   Limited Partner – Joseph Kingston – 47.5-percent owner

16                   General Partner – Sahara Dunes Management, Inc. – five-percent owner

17               Shareholders of Sahara Dunes Management, Inc.:

18                   Ted Kingston – 50-percent shareholder

19                   Joseph Kingston – 50-percent shareholder<sup>5</sup>

22 \_\_\_\_\_  
23           <sup>3</sup> Joseph Kingston never submitted an application for a state gambling license as a  
24 shareholder, officer, or director of the Corporation. Therefore, he was never assigned a LIS record  
number for that affiliation.

25           <sup>4</sup> After the initial Statement of Issues was filed, the Bureau learned of the existence of JTI,  
26 Inc., which Respondent represented to be "the same as Sahara Dunes Management, Inc." On  
February 20, 2018, a certificate of amendment was filed with the California Secretary of State,  
changing the name of Sahara Dunes Management, Inc. to JTI Management, Inc.

27           <sup>5</sup> Respondent has not provided updated ownership information following the death of  
28 Joseph Kingston.

## **LICENSE HISTORY**

10. Respondent was originally formed on or about May 4, 1978. The original partners did not include Ted Kingston or Joseph Kingston. The Casino was formerly known as the Sahara Dunes Casino. The original partners were all registered with the Department of Justice, Office of Gaming Registration (the Bureau's predecessor),<sup>6</sup> pursuant to the Gaming Registration Act (former Bus. & Prof. Code, § 19800 et seq.). The Gaming Registration Act was the predecessor of the current Gambling Control Act (Act) (Bus. & Prof. Code, § 19800 et seq.), which went into effect in 1997.<sup>7</sup>

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

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

13. As described below, beginning in or about September 1999, Respondent, the Corporation, Clyde Elden Kingston, Ted Kingston, and Joseph Kingston applied to the Division for licensure pursuant to the Act. (Bus. & Prof. Code, § 19851.) The Division issued a provisional license to Respondent to operate the Casino while these applications for state gambling licenses were pending. From 1999 to the present, Respondent has requested, and been

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<sup>6</sup> The Department of Justice, Division of Gambling Control (Division) was the direct successor to the Office of Gaming Registration. The Bureau then succeeded the Division.

<sup>7</sup> The statutes and regulations from the Act and the regulations promulgated thereunder, specifically applicable to this Fifth Amended Statement of Issues, are quoted in pertinent part in Appendix A.

1 granted, continuous extensions of the provisional license. The current provisional license will  
2 expire on December 31, 2023.<sup>8</sup>

3 14. On or about October 8, 2005, Clyde Elden Kingston passed away. Respondent's  
4 agents have represented that all of his ownership interest in Respondent was inherited, or  
5 otherwise acquired, by his son, Ted Kingston. Respondent further represented that ultimately led  
6 to the current ownership structure of the Casino by Respondent, as described in paragraphs 2  
7 through 9 above.

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

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

16 16. In the 1999 Applications, Respondent's ownership was represented to be as  
17 follows:

18 Respondent – 100-percent owner of the Casino:

19 Partners of Respondent:

20 Limited Partner – Ted Kingston – two-percent owner

21 Limited Partner – Joseph Kingston – 21.75-percent owner

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

23 General Partner – Sahara Dunes Management, Inc. – 56.5-percent owner  
24  
25  
26

---

27 <sup>8</sup> On or about January 1, 2022, the Bureau issued Respondent a Certificate to Operate with  
28 Conditions, which expires on December 31, 2023. A provisional license is held subject to all  
terms and conditions under which a license is held pursuant to the Act. (Cal. Code Regs., tit. 11, §  
2141, subd. (b).)

Shareholders of Sahara Dunes Management, Inc.:

Clyde Elden Kingston – 50-percent shareholder

Joseph Kingston – 50-percent shareholder

17. In the 1999 Applications, the applicants made the following representations:
- a. Ted Kingston owned two percent of Respondent and his initial investment was a gift from his father, Clyde Elden Kingston. In his earlier 1993 application, Ted Kingston represented: (i) his initial investment was a gift from his parents, (ii) the purchase price for Respondent was \$4 million of which Fidelity Funding Co. (Fidelity Funding) provided \$3 million; and (iii) he held \$275,000 in World Enterprises (World Enterprises) stock. In his 1993 application, Ted Kingston included “Exhibit ‘A’ – Description of Transaction,” which set forth the total purchase price and sources of funds.
  - b. Joseph Kingston invested \$500,000 in Respondent that represented a 50-percent ownership interest. He held: (i) a note receivable to be paid by World Enterprises; (ii) an eight-percent interest in World Enterprises; and (iii) an eight-percent interest in Fidelity Funding.
  - c. Clyde Elden Kingston invested \$59,250 in Respondent and \$25,000 in the Corporation. He held: (i) a 100-percent interest in LER Lounge, Inc. (LER Lounge); (ii) a nine-percent interest in World Enterprises; (iii) had notes payable to World Enterprises totaling \$3.5 million; (iv) had a note receivable to be paid by LER Lounge in the amount of \$80,000; and (v) had a note receivable to be paid by Respondent in the amount of \$3.46 million. Clyde Elden Kingston identified his wife, Gayle, and eight children, including Ted Kingston. Clyde Elden Kingston put “N/A” for former marriages. In his earlier 1991 application, he represented that he had a note receivable to be paid by World Enterprises.
  - d. Respondent stated: (i) it had an account receivable from LER Lounge in the amount of \$1.3 million; (ii) it had an account payable to Fidelity Funding in the amount of \$1.3 million; (iii) it had a note payable to Clyde Elden Kingston in the

amount of \$3.46 million; and (iv) it had a note payable to Fidelity Funding in the amount of \$63,000.

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

- a. A copy of a proposed sale agreement, which included the terms and conditions of the proposed transfer of Michelle Kingston-Knighton's interest in Respondent. Clyde Elden Kingston responded: (i) she was a limited partner, whose two-percent interest was given to her by her father, Joseph Kingston; (ii) she no longer wished to be part of the partnership; (iii) she transferred her interest back to her father; and (iv) she received no compensation for her interest. Michelle Kingston-Knighton responded similarly. No sale agreement or other documentation was provided.
- b. A copy of the proposed amended partnership agreement. None was provided.
- c. Information as to why the Division had not received a corporate application on behalf of the Corporation. Clyde Elden Kingston responded that he understood no application was necessary. A corporate application was submitted, but no application was received from Clyde Elden Kingston or Joseph Kingston in their capacities as shareholders, officers, or directors.
- d. A list of related parties or affiliates. Clyde Elden Kingston responded that Respondent did not have ownership or an interest in LER Lounge, Mountain Coin (World Enterprises), and Fidelity Funding, even though Respondent's principals did. He further responded: "In the future I will list these as related entities with an explanation of Sahara Dunes relationship if this is required by the regulations." No listing of related parties or affiliates was provided.
- e. Confirmation of outstanding loans to Respondents and Clyde Elden Kingston by Fidelity Funding, including origination date, original amount, maturity date, payment terms, interest rate, and current outstanding balances. The Bureau did not receive a response.



- 1 f. Copies of notes and related documents for loans from Fidelity Funding and  
2 information on how funds totaling approximately \$6 million were used and will  
3 be repaid. The Bureau did not receive a response.
- 4 g. Copies of invoices making up the amount of approximately \$1.4 million due from  
5 LER Lounge. The Bureau did not receive the requested copies or information.
- 6 19. Following the 1999 Applications, the Bureau submitted Background Investigation  
7 Reports to the Commission as follows:
- 8 a. Report dated October 29, 2004, and amended December 21, 2004 (2004 Report).  
9 The Bureau identified concerns that did “not rise to the level of a denial.” The  
10 Bureau recommended the 1999 Applications be granted subject to certain  
11 conditions outlined in the report. The conditions included, among others, audited  
12 financial statements and compliance with adequate financing regulations.
- 13 (1) The 2004 Report noted that Fidelity Funding “is reportedly a  
14 family-owned business in which Joseph Kingston has an  
15 ownership interest, and . . . provides funding for other  
16 businesses which the Kingston’s own, . . . but is not licensed as a  
17 bank or financial institution in Utah.”
- 18 (2) The 2004 Report concluded that Michelle Kingston-Knighton  
19 transferred her interests before being summoned for licensing  
20 and the Act did not apply.
- 21 (3) The 2004 Report identified a long-term building lease between  
22 Respondent and Fidelity Funding.
- 23 (4) In the 2004 Report, one area of concern was inadequate records  
24 and documentation, which included, among other things, a  
25 reported \$1.6 million liability to Fidelity Funding, which did not  
26 confirm the liability’s existence, and an undocumented \$4.3  
27 million liability to Clyde Elden Kingston.
- 28

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

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

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

12 (1) The applicants failed to disclose all persons who have an  
13 ownership or financial interest in the Casino. The report  
14 identified building leases between Respondent and Fidelity  
15 Funding and D.U. Company, Inc. (D.U. Company). The 2008  
16 Report described D.U. Company as owned by unidentified  
17 persons familially related to the applicants. The 2008 Report  
18 and accompanying auditor’s report identified services, such as  
19 accounting and legal services, provided by persons or entities  
20 familially related to the applicants.

21 (2) The applicants failed to provide information or documentation  
22 requested by the Bureau. The 2008 Report noted Respondent’s  
23 ownership as stated in documents on file with the Secretary of  
24 State and the applicants’ failure to provide requested official  
25 documentation confirming a change in that structure. The 2008  
26 Report also noted that Ted Kingston failed to provide requested  
27 documentation regarding the transfer of Clyde Elden Kingston’s  
28 interests to him.

1 (3) The applicants provided misleading or untrue information to the  
2 Bureau. The Casino did not notify the Bureau of Clyde Elden  
3 Kingston's October 8, 2005 death until after the Bureau  
4 requested additional information for its background  
5 investigation. Rather than provide probate or similar  
6 substantiating documents as the Bureau requested, applicants  
7 provided written statements from Ted Kingston and another  
8 person having a familial relationship with the applicants.

9 (4) The applicants failed to notify the Commission or the Bureau  
10 when, or obtain the Commission's approval prior to, transferring  
11 Clyde Elden Kingston's ownership interests to Ted Kingston.

12 (5) The Casino's financial statements were not reviewed by an  
13 independent accountant certified by the California Board of  
14 Accountancy. The 2008 Report noted that the Casino's financial  
15 statements were prepared, but not reviewed or audited, by a Utah  
16 accounting firm that was familially related to the applicants.

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

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

22 20. The Commission took no action with respect to the 2004 Report's  
23 recommendations. At its June 11, 2009 meeting and after receiving the 2008 Report, the  
24 Commission referred the 1999 Applications to an evidentiary hearing to be held pursuant to  
25 Business and Professions Code section 19825.<sup>9</sup>

26  
27  
28 <sup>9</sup> Only the Bureau can bring an Accusation. (Bus. & Prof. Code, § 19930, subd. (b).) A  
Commission referral necessitates the filing of a Statement of Issues. (Gov. Code, § 11504.)

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

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

10          23.     In 2015 and 2016, the Bureau requested applications from Respondent and  
11 all of its partners, as well as all persons having any financial interests in Respondent. In  
12 2016, the Bureau received applications and supplemental information packages  
13 (collectively, 2016 Applications) for Ted Kingston and Respondent as follows:

- 14           a.     Application for State Gambling License for Ted Kingston, as a limited  
15                   partner of Respondent.
- 16           b.     Application for State Gambling License for Ted Kingston, as an officer of  
17                   the Corporation.
- 18           c.     Individual Supplemental Information for Ted Kingston.
- 19           d.     Individual Supplemental Information for Ted Kingston.
- 20           e.     Entity Supplemental Information for Respondent.

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

- 23           a.     No interest in Respondent had been assigned, pledged, or hypothecated to  
24                   any individual or entity.
- 25           b.     LER Lounge owed Respondent approximately \$1.4 million. Respondent  
26                   disclosed that LER Lounge was owned by Ted Kingston. Respondent did  
27                   not provide any documents evidencing, or substantiating, the receivable.  
28

- 1 c. Respondent owed World Enterprises approximately \$3.8 million, which was  
2 “collateralized by inventories, land leases, facilities and equipment.”  
3 Respondent did not disclose that World Enterprises was familially related to  
4 Ted Kingston and Joseph Kingston. Respondent did not disclose World  
5 Enterprise’s owners.
- 6 d. Respondent had lease payment obligations exceeding \$320,000 per year as  
7 of December 31, 2014, and \$430,000 per year as of December 31, 2013.  
8 Respondent did not disclose the lessors under the leases or provide any  
9 documents evidencing, or substantiating, the leases.
- 10 e. Respondent’s general partner was the Corporation. Respondent did not  
11 disclose the existence of JTI, Inc. Respondent did not provide any  
12 documents evidencing, or substantiating, JTI, Inc.
- 13 f. Respondent’s ownership structure was five percent held by the Corporation  
14 and Joseph Kingston and Ted Kingston each held 47.5 percent as limited  
15 partners. Other than Ted Kingston’s inheriting Clyde Elden Kingston’s  
16 interests, Respondent did not disclose the basis, or approvals, for the  
17 ownership structure changes since the 1999 Applications.
- 18 g. The Casino had contracts with World Enterprises and Fidelity Funding for  
19 “Contract for Purchase.” Respondent did not disclose that Fidelity Funding  
20 was familially related to Ted Kingston and Joseph Kingston. Respondent  
21 did not disclose the owners of World Enterprises and Fidelity Funding.  
22 Respondent did not provide any documentation, or substantiation, of the  
23 contracts for purchase.
- 24 h. Ted Kingston’s parents were Clyde Elden Kingston and Gayle Kingston.
- 25 i. Clyde Elden Kingston’s will directed that all of his assets be given to his  
26 wife, Rachel (O. Young) Kingston, who in turn gifted his interests in  
27 Respondent to Ted Kingston. As it did in connection with the 1999  
28

1 Applications, Respondent failed to provide the will or similar document for  
2 Clyde Elden Kingston.

- 3 j. Joseph Kingston desired to transfer his interests in the Casino to his cousin,  
4 Chad Benson. Despite the Bureau's requests, Joseph Kingston, Respondent,  
5 Ted Kingston, or any other person did not provide the transactional  
6 documents for the desired transfer to the Bureau.

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

- 9 a. Balance sheets and profit and loss statements for the Corporation. None  
10 were provided.
- 11 b. Bank statements for the Corporation and Joseph Kingston. None were  
12 provided.
- 13 c. Applications for license for the Corporation, Joseph Kingston, and any other  
14 individuals that have ownership interests in the Casino. None were  
15 provided.
- 16 d. Supplemental background information for the Corporation and Joseph  
17 Kingston. None were provided.
- 18 e. Transactional documents for the transfer of shares or purchase of card room  
19 ownership interests. None were provided.
- 20 f. Financial information and tax returns through 2015. None were provided  
21 for the Corporation and Joseph Kingston.

22 26. Following the 2016 Applications, the Bureau submitted a background  
23 investigation report recommending denial on September 23, 2016 (2016 Report) for, among  
24 others, the following reasons:

- 25 a. The Corporation had not submitted an application.
- 26 b. Joseph Kingston refused to comply with the Bureau's requests to submit an  
27 application and supporting documentation.
- 28

- 1 c. The Bureau found numerous violations of the Act during recent inspections  
2 of the Casino. The violations were egregious and serious in nature.
- 3 d. Ted Kingston failed to provide complete applications and supporting  
4 documentation.
- 5 e. Respondent was not eligible to hold a state gambling license because each  
6 of its partners had not applied for and obtained state gambling licenses.

7 **CHAD BENSON'S "OWNERSHIP" SUBMISSION**

8 27. In April 2016, Chad Benson submitted Gambling Establishment Owner Applicant -  
9 Individual Supplemental Background Investigation Information (BGC-APP.015A) and additional  
10 documents (Benson Supplemental Package). There, he stated that he was one of five children and  
11 his parents were Clyde Elden Kingston and Sarah Owen Benson. He reported notes payable to  
12 Fidelity Funding of approximately \$475,000.

13 28. On April 20, 2016, the Bureau returned the Benson Supplemental Package. In its  
14 cover letter, the Bureau wrote: "It is not clear why this was sent, as the Bureau has not received an  
15 Application for a State Gambling License."

16 29. Chad Benson did not submit an Application for a State Gambling License, re-submit  
17 the Benson Supplemental Package, or respond to the Bureau's April 20, 2016 cover letter.

18 **JOSEPH KINGSTON-CHAD BENSON POTENTIAL TRANSACTIONS**

19 30. On April 19, 2016, Joseph Kingston and Chad Benson signed a Purchase and Sale  
20 Agreement relating to a 47.5-percent interest in Respondent. The purchase price was assumption  
21 of \$3 million of Joseph Kingston's "liabilities of" Respondent. Joseph Kingston agreed to  
22 contribute capital to Respondent in his share of Respondent's liabilities exceeding \$3 million.  
23 "Final sale [was] contingent upon approval by the California Bureau of Gambling Control."

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

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

6           33. Prior to this proceeding's filing, neither the agreements described in paragraphs 30 and  
7 31 above nor the valuation was submitted to the Bureau for review. Prior to this proceeding's  
8 filing, neither the agreements described in paragraphs 30 and 31 above nor the valuation was  
9 submitted to the Commission for approval.

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

- 13           a. The terms of any potential transactions between Joseph Kingston and Chad  
14 Benson.
  - 15           b. The documents relating to the potential transactions between Joseph  
16 Kingston and Chad Benson.
  - 17           c. Information regarding the debt to be assumed and the identity of the  
18 creditors.
  - 19           d. An explanation for why the agreements only called for the Bureau's  
20 approval and did not comply with the Act.
  - 21           e. Any valuation of Joseph Kingston's interests whether performed by an  
22 independent entity or person or a familially related entity or person.
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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 by 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,  
24 or to reveal information material to qualification for licensure, or an applicant's supplying of  
25 untrue 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.<sup>10</sup> 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's successor(s) in interest, Ted Kingston, and the  
11 Corporation, must all be licensed for Respondent to be licensable. Further, because the  
12 Corporation is a corporation, Joseph Kingston's successor(s) in interest and Ted Kingston must  
13 also be licensed as shareholders, officers, or directors.<sup>11</sup> (Bus. & Prof. Code, § 19852, subd. (a).)  
14 Because of Respondent's ownership structure, Respondent is not eligible to obtain and hold a  
15 state gambling license to operate the Casino unless Joseph Kingston's successor(s) in interest  
16 and Ted Kingston both apply for and each obtain two licenses, one as Respondent's limited  
17 partners, and one as the Corporation's shareholders. Further, Respondent is not eligible to obtain  
18 and hold a state gambling license to operate the Casino unless the Corporation applies for and  
19 obtains a state gambling license as one of Respondent's partners.<sup>12</sup>

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

24           <sup>10</sup> Joseph Kingston's successor(s) in interest, Ted Kingston and the Corporation, if  
25 licensed, would not be issued separate license certificates. Rather, they would be endorsed upon  
Respondent's license. (Bus. & Prof. Code, § 19851, subd. (b).)

26           <sup>11</sup> If licensed, they would be endorsed under the Corporation's endorsement.

27           <sup>12</sup> Respondent's ownership structure created by Joseph Kingston and Ted Kingston  
28 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's Successor(s) in Interest, Sahara Dunes Management, Inc., and**  
6 **Respondent. – Failure/Refusal To 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 and his successor(s) in interest failed or refused to  
9 submit an updated application either as a partner in Respondent or as a shareholder of the  
10 Corporation. Prior to 2015, Joseph Kingston did not submit an application as a shareholder of  
11 the Corporation. The failures or refusals by Joseph Kingston's successor(s) in interest to submit  
12 an application make the successor(s) in interest unsuitable and/or disqualified for licensure as a  
13 partner of Respondent and as a shareholder of the Corporation. Additionally, despite the  
14 Bureau' requests since late 2015, the Corporation has failed or refused to submit an updated  
15 application as Respondent's general partner. Prior to 2015, the Corporation's shareholders –  
16 Joseph Kingston and Clyde Elden Kingston – failed to submit applications as shareholders. The  
17 Corporation's and its shareholders' failures and refusals make it unsuitable and/or disqualified  
18 for licensure as a partner of Respondent. Further, even though it submitted supplemental  
19 information in 2016, Respondent failed to submit an application as requested by the Bureau in  
20 and after late 2015. Consequently, Respondent is not eligible for licensure as the information  
21 provided in connection with the 1999 Applications in not current or updated.  
22 (Bus. & Prof. Code, §§ 19852, subds. (a) & (d); 19856, subd. (c), 19857, subds. (a) & (b), &  
23 19859, subds. (a) & (b).)

24 **SECOND CAUSE FOR DENIAL OF APPLICATION**

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

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

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 19866.)

### 6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

#### 7 **(Failure To Make Full and True Disclosure)**

8 47. Respondent cannot be issued a license because it and its owners have failed to make  
9 full and true disclosure of information as necessary to carry out the state's policies relating to  
10 licensing, registration, and control of gambling. Respondent and its owners have failed to reveal  
11 facts material to qualification. Beginning with the 1999 Applications and continuing through the  
12 2016 Applications, these failures included, among others, the following:

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

- 1 f. The reasons for, documents relating to, and the status of Respondents' \$3.46  
2 million obligation to Clyde Elden Kingston as reported in the 1999  
3 Applications.
- 4 g. The identities and ownership of parties related to Respondents' owners,  
5 including, among others, Fidelity Funding, World Enterprises, and D.U.  
6 Company.
- 7 h. Documents showing the transactions between Respondent or its owners, on  
8 the one hand, and the parties related to Respondent's owners, including,  
9 among others, Fidelity Funding, World Enterprises, and D.U. Company, on  
10 the other.
- 11 i. The will or testamentary documents regarding Clyde Elden Kingston and  
12 the transfer of his interests in Respondent to Ted Kingston.
- 13 j. Specific information, including the exact date and documents, regarding the  
14 transfer of Michelle Kingston-Knighton's ownership interest in Respondent  
15 to Joseph Kingston.
- 16 k. Information regarding the transfer of Joseph Kingston's ownership interests  
17 in Respondent and the Corporation to his successor(s) in interest following  
18 his death.

19 (Bus. & Prof. Code, §§ 19856, subd. (c), 19857, subds. (a) & (b), 19859, subds. (a) & (b),  
20 & 19866.)

#### 21 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

##### 22 **(Failure/Refusal To Comply with the Act)**

23 48. Respondent has demonstrated a pattern and practice of an inability or unwillingness  
24 to operate the Casino in compliance with the Act and the regulations promulgated thereunder.  
25 As an example, since just on or about June 28, 2016, while Respondent knew it was being  
26 evaluated for licensure, Respondent nevertheless operated the Casino in a manner that violated  
27 the Act and the regulations promulgated thereunder. Since January 1, 2016, the Bureau has  
28 issued to Respondent multiple letters of warning and violation notices detailing many violations

1 in the operation of the Casino, some of which Respondent took months to correct or failed to  
2 correct at all. Such management and operation of the Casino makes Respondent and Ted  
3 Kingston unqualified for licensure.

4 49. Respondent and Ted Kingston failed, and refused, to comply with the Act when  
5 Respondent allowed the transfer of, and Ted Kingston accepted, Clyde Elden Kingston's  
6 ownership interests without the Commission's prior approval. Those purported transactions are  
7 void. Respondent's and Ted Kingston's failure to comply with the Act show that they are  
8 unqualified for licensure.

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

#### 10 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

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

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

- 24 a. Respondent lacks adequate internal controls with respect to BSA and AML  
25 compliance. (31 C.F.R. § 1021.210(b)(2)(i).)

27 <sup>13</sup> A gambling establishment with annual gross gaming revenues in excess of \$1,000,000  
28 is considered a financial institution and is required to comply with the BSA, and maintain and  
implement an adequate and effective AML program. (31 U.S.C. § 5312, subds. (a)(1) & (2)(x).)

- b. Respondent has failed to implement and update its written policies and procedures contained in the gambling establishment's AML program. (31 C.F.R. § 1021.210(b)(1).)
- c. Respondent's internal or external testing for BSA and AML compliance was not adequate, was performed sporadically, and lacked sufficient supporting documentation. (31 C.F.R. § 1021.210(b)(2)(ii).)
- d. Respondent has failed to conduct adequate BSA and AML compliance training and has maintained no documentation that it conducted any training. (31 C.F.R. § 1021.210(b)(2)(iii).)
- e. Respondent has failed to have a qualified individual or individuals responsible for day-to-day BSA and AML compliance. (31 C.F.R. § 1021.210(b)(2)(iv).)
- f. Respondent has failed to properly record all transactional information required by the BSA and the regulations promulgated thereunder. (31 C.F.R. § 1021.210(b)(2)(v)(A).)
- g. Respondent has failed to have an adequate suspicious activity reporting system in place. (31 C.F.R. §§ 1021.210(b)(2)(v)(B), 1021.320.)
- h. Respondent has failed to have an adequate currency transaction reporting system in place. (31. C.F.R. § 1021.311.)
- (Bus. & Prof. Code, §§ 19801, subd. (n), 19856, subd. (c), 19857, subds. (a) & (b), 19920, & 19924.)

### **COST RECOVERY**

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




**PRAYER**

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

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

Dated: August 23, 2023

  
YOLANDA MORROW, Director  
Bureau of Gambling Control  
California Department of Justice  
Complainant

## APPENDIX A

1. Business and Professions Code section 19801, subdivisions (g) and (h), provide:

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

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

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.

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 pertinent part:

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

\* \* \*

(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.

6. Business and Professions Code section 19850 provides, in pertinent part:

Every person who, . . . as owner . . . , either solely or in conjunction with others, deals, operates, carries on, conducts, maintains, or exposes for play and controlled game in this state, or who receives directly or indirectly, any compensation or reward, or any percentage or share of the money or property played, for keeping, running, carrying on any controlled game in this state, shall apply for and obtain from the commission, and shall thereafter maintain, a valid state gambling license, . . . as specified in this chapter<sup>[14]</sup>. . .

<sup>14</sup> Chapter refers to Chapter 5 of the Business and Professions Code, commencing with section 19800. It is also known as the California Gambling Control Act.

1           7. Business and Professions Code section 19851 provides:

2               (a) The owner of a gambling enterprise<sup>[15]</sup> shall apply for  
3               and obtain a state gambling license. The owner of a gambling  
4               enterprise shall be known as the owner-licensee.

5               (b) Other persons who also obtain a state gambling license,  
6               as required by this chapter, shall not receive a separate license  
7               certificate, but the license of every such person shall be endorsed on  
8               the license certificate that is issued to the owner of the gambling  
9               enterprise.

10           8. Business and Professions Code section 19852, subdivisions (a) and (d), provide:

11               Except as provided in Section 19852.2, an owner of a gambling  
12               enterprise that is not a natural person shall not be eligible for a state  
13               gambling license unless each of the following persons individually  
14               applies for and obtains a state gambling license:

15               (a) If the owner is a corporation, then each officer, director, and  
16               shareholder, other than a holding or intermediary company, of the  
17               owner. The foregoing does not apply to an owner that is either a  
18               publicly traded racing association or a qualified racing association.

19               \* \* \*

20               (d) If the owner is a partnership, then every general and limited  
21               partner of, and every trustee or person, other than a holding or  
22               intermediary company, having or acquiring a direct or beneficial  
23               interest in, that partnership owner.

24           9. Business and Professions Code section 19853, subdivisions (a)(2) and  
25           (c), provide:

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

30               \* \* \*

---

31           <sup>15</sup> Business and Professions Code, section 19805, subdivision (m), defines “gambling  
32           enterprise” to mean “a natural person or an entity, whether individual, corporate, or otherwise, that  
33           conducts a gambling operation and that by virtue thereof is required to hold a state gambling  
34           license under this chapter.” A “gambling operation” is defined to mean “exposing for play one or  
35           more controlled games that are dealt, operated, carried on, conducted or maintained for  
36           commercial gain.” (Bus. & Prof. Code, § 19805, subd. (q).)

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

4 \* \* \*

5 (c) In reviewing an application for any license, the  
6 commission shall consider whether issuance of the license is inimical to  
7 public health,

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

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

12 \* \* \*

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

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

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

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

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

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

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

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

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

8 13. Business and Professions Code section 19866 provides:

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

14 14. Business and Professions Code section 19920 provides:

15 It is the policy of the State of California to require that all  
16 establishments wherein controlled gambling is conducted in this state  
17 be operate in a manner suitable to protect the public health, safety, and  
18 general welfare of the residents of the state. The responsibility for the  
19 employment and maintenance of suitable methods of operation rests  
20 with the owner licensee, and willful or persistent use or toleration of  
21 methods of operation deemed unsuitable by the commission or by local  
22 government shall constitute grounds for license revocation or other  
23 disciplinary action.

24 15. Business and Professions Code section 19922 provides:

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

27 16. Business and Professions Code section 19924 provides:

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

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

(b) If, after any investigation, the department is satisfied that a  
license, permit, finding of suitability, or approval should be suspended  
or revoked, it shall file an accusation with the commission in

1 accordance with Chapter 5 (commencing with Section 11500) of Part 1  
2 of Division 3 of Title 2 of the Government Code.

3 \* \* \*

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

7 \* \* \*

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

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

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

13 18. Business and Professions Code section 19971 provides:

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

17 19. Government Code section 11504 provides in pertinent part:

18 A hearing to determine whether a right, authority, license, or  
19 privilege should be granted, issued, or renewed shall be initiated by  
20 filing a statement of issues. The statement of issues shall be a written  
statement specifying the statutes and rules with which the respondent  
21 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  
23 20. California Code of Regulations, title 4, section 12058, provides:

24 (a) When the Commission elects to hold an APA hearing  
25 the Commission shall determine whether the APA hearing will be  
held before an Administrative Law Judge sitting on behalf of the  
26 Commission or before the Commission itself with an  
Administrative Law Judge presiding in accordance with  
27 Government Code section 11512. Notice of the APA hearing shall  
be provided to the applicant pursuant to Government Code section  
28 11500 et seq.

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

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

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

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

12 21. California Code of Regulations, title 4, section 12200.7, subdivision (b)(22),  
13 provides:

14 (b) Each proposition player contract shall specifically require all  
15 of the following to be separately set forth at the beginning of the contract  
16 in the following order:

17 \* \* \*

18 (22) That the contract is a complete expression of all  
19 agreements and financial arrangements between the parties; that  
20 any addition to or modification of the contract, including  
21 supplementary or oral agreements, must be approved in advance  
by the Bureau pursuant to Section 12200.10B (Review and  
Approval of Amendments to Proposition Player Contracts) before  
the addition or modification takes place.

22 22. California Code of Regulations, title 4, section 12200.9, subdivision (a)(1)(D),  
23 provides, in pertinent part:

24 (a)(1) . . . The Bureau shall approve a proposition player  
25 contract only if all the following requirements have been satisfied:

26 \* \* \*

27 (D) The contract will not undermine the public trust  
28 that the controlled gambling operations covered by the



1 contract will be conducted honestly, by reason of the  
2 existence or perception of any collusive arrangement  
3 between any party to the contract and the holder of a state  
4 gambling license, or otherwise.

5 23. California Code of Regulations, title 11, section 2141 provides:

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

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

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

14 24. Title 31, United States Code, section 5318, subdivision (h)(1), provides:

15 (h) Anti-Money Laundering Programs.—

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

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

22 (B) the designation of a compliance officer;

23 (C) an ongoing employee training program; and

24 (D) an independent audit function to test programs.

25 25. Title 31, United States Code, section 5312, provides in relevant part:

26 (a) In this subchapter—

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

(2) “financial institution” means—

\* \* \*

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

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

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

26. 31 Code of Federal Regulations, section 1021.210, provides:

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

(b) *Compliance programs.*

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

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

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

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

(iii) Training of casino personnel, including training in the identification of unusual or suspicious transactions, to the extent that the reporting of such transactions is required by this chapter, by other applicable law or

1 regulation, or by the casino's own administrative and  
2 compliance policies;

3 (iv) An individual or individuals to assure day-to-  
4 day compliance;

5 (v) Procedures for using all available information  
6 to determine:

7 (A) When required by this chapter, the  
8 name, address, social security number, and other  
9 information, and verification of the same, of a  
10 person;

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

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

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

21 27. 31 Code of Federal Regulations, section 1021.311, provides:

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

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

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

28 (2) Front money deposits;

(3) Safekeeping deposits;

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

(5) Bets of currency, including money plays;

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

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

2 (8) Exchanges of currency for currency, including  
3 foreign currency; and

4 (9) Bills inserted into electronic gaming devices.

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

7 (1) Redemptions of chips, tokens, tickets, and other  
8 gaming instruments;

9 (2) Front money withdrawals;

10 (3) Safekeeping withdrawals;

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

13 (5) Payments on bets;

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

16 (7) Cashing of checks or other negotiable instruments;

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

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

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

23 (c) Other provisions of this chapter notwithstanding, casinos are  
24 exempted from the reporting obligations found in this section and §  
25 1021.313 for the following transactions in currency or currency  
26 transactions:

27 (1) Transactions between a casino and a dealer in foreign  
28 exchange, or between a casino and a check casher, 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

1 in the money play, or cash in transactions to the extent the  
2 currency is the same currency the customer previously wagered in  
a money play on the same table game without leaving the table;

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

5 (4) Jackpots from slot machines or video lottery terminals.  
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# Exhibit 1

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?

25  
26               b. When, how, and why did these alleged transactions occur?  
27  
28



- 1 c. Did any regulator, ostensibly, approve these transactions and provide  
2 documentation of those approvals?  
3  
4 d. Documents concerning these transactions and any approvals.  
5  
6 e. Provide the letter from Keith Sharp, DA for SDC, from 2009 requesting the  
7 Commission agendaize the transaction from Clyde Kingston to Ted Kingston and  
8 documents related there to. Include any responses or other correspondence, if any,  
9 from other parties regarding this request.  
10  
11 f. Don't these purported transactions concerning ownership in SDC and SDM  
12 require *prior* Commission approval under Business and Professions Code sections  
13 19892 and 19904 or else are void?  
14  
15 g. Whether other parties must submit applications for licensure and what transactions  
16 still need to be approved because the Commission has not approved these transfers  
17 in SDC and SDM?  
18  
19 h. Can the Commission retroactively approve these possible transfers in SDC and  
20 SDM under Business and Professions Code sections 19892 and 19904 in light of  
21 the alleged ownership in the above-titled hearing?  
22  
23 2) Evidence concerning transactions between Joseph Kingston and Chad Benson and the  
24 impact on SDC's potential suitability including without limit:  
25 a. Provide all evidence and documentation regarding the valuation of Joseph  
26 Kingston's ownership interest in SDC and SDM and the alleged debts the  
27  
28

purported Buyer would be assuming under the transaction

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

## SDC'S PROVISIONAL LICENSE

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

- 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:  
27  
28

- 1 a. Failure to disclose required information;
- 2
- 3 b. Failure to maintain adequate records;
- 4
- 5 c. Use of inappropriate accounting methods;
- 6
- 7 d. Failure to notify the Commission of transfers of ownership interest; and
- 8
- 9 e. Continued employment of a key employee with a felony conviction.
- 10

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

- 12 a. Allegations that the applicants committed numerous violations of the Act and the
- 13 regulations promulgated thereunder in the operation and management of the
- 14 Casino.
- 15

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

- 17 a. Financial records previously redacted in the administrative record.
- 18
- 19 b. Any financial arraignments and or transactions with the named applicants and
- 20 affiliates or interested parties.
- 21
- 22 c. Evidence related to Ted Kingston's alleged failure to provide information
- 23 requested by the Bureau in or around 2016.
- 24 d. Whether Ted Kingston has a spouse with a financial interest, including for instance
- 25 a community property interest, in SDC or SDM and whether they require
- 26 licensure?

27 ///

28 ///

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

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

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

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

- 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

28

1 they be separately approved under Business and Professions Code section 19882 and  
2 19892 if Joseph Kingston is denied licensure?

3  
4 17) Can the Commission separately act to deny Joseph Kingston a license as a partner for  
5 SDC and a shareholder for SDM and then allow Joseph Kingston to divest his interest  
6 under Business and Professions Code sections 19882 and 19892 while refraining from  
7 taking action on the other applicants and a new owner is found?

8  
9 18) If transactions are approved between Joseph Kingston and Chad Benson or another party,  
10 can the Commission consider the new owner as part of the above-titled evidentiary  
11 hearing or would this require a separate Commission meeting or evidentiary hearing?

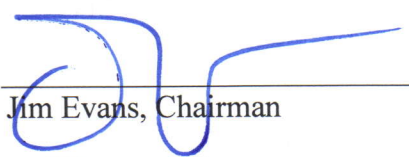
12 19) Can this possible separate Commission meeting or evidentiary hearing occur before the  
13 conclusion of the above-titled matter?

14 ///  
15 ///  
16 ///




This Decision and Order is effective immediately.

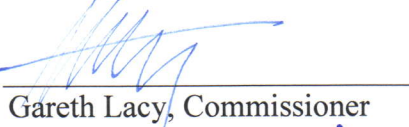
Dated: 9/12/19

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

**DECLARATION OF SERVICE BY E-MAIL ONLY**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for the electronic service of documents and in accordance with that practice on September 27, 2023, I served the attached **CORRECTED FIFTH AMENDED STATEMENT OF ISSUES** by transmitting a true copy via electronic mail addressed as follows:

**Stephen L. Schreiner**  
**Solomon Ward Seidenwurm & Smith LLP**  
[sschreiner@swsslw.com](mailto:sschreiner@swsslw.com)  
[nfuller@swsslw.com](mailto:nfuller@swsslw.com)  
[rtang@swsslw.com](mailto:rtang@swsslw.com)  
[dyates@swsslw.com](mailto:dyates@swsslw.com)

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 27, 2023, at Sacramento, California.

---

PAULA CORRAL  
Declarant

---

*Paula Corral*  
Signature