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10 BEFORE THE
11 GAMBLING CONTROL COMMISSION
12 STATE OF CALIFORNIA

14 **In the Matter of the Statement of Reasons
for Denial of Application for a Key
15 Employee License and Renewal Work
Permit for:**

**CGCC Case No. GCADS-GEKE-001211
BGC Case No. BGC-HQ2016-00011SL**

STATEMENT OF REASONS

17 **NASEEM ADEL SALEM**

20 Respondent.

22 Complainant alleges as follows:

23 **PARTIES**

24 1. Yolanda Morrow (Complainant) brings this Statement of Reasons solely in her
25 official capacity as Acting Director of the California Department of Justice, Bureau of Gambling
26 Control (Bureau).

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2. Naseem Adel Salem (Respondent) (license no. GEKE-001211) previously was employed by the Palomar Card Club¹ (Palomar) in various positions, including as its general manager.

THE APPLICATIONS AND THIS PROCEEDING

3. On July 22, 2015, the Bureau received a Renewal Application for Gambling Establishment Key Employee License from Respondent (Application) to allow for his continued licensing as a Key Employee and performing services as the Palomar’s general manager.

4. On November 19, 2015, the California Gambling Control Commission (Commission) extended the validity of Respondent’s key employee license, number GEKE-001211, to April 30, 2016, with the conditions that the Commission placed on Respondent’s Key Employee License by its Decision and Order issued on September 5, 2013, in California Gambling Control Commission Case No. 2012-0314-3.

5. On March 9, 2016, the Bureau requested from the Commission an additional extension of Respondent’s key employee license to allow time and opportunity for the Bureau to complete its background investigation into Respondent’s suitability for licensure. Specifically, the Bureau’s investigation revealed that the United States indicted Respondent, along with 24 other individuals, on November 20, 2015.²

6. On or about April 14, 2016, the Commission extended the validity of Respondent’s key employee license for 120 days, and added two further conditions.³ On or about October 5,

¹ The Palomar’s Gambling Establishment license was revoked by an Amended Stipulated Settlement; Decision and Order, dated June 24, 2016. The Palomar is no longer in existence.

² In United States District Court, Southern District of California, Case No. 15CR293GPC, the United States charged Respondent with money laundering conspiracy, failure to maintain a reasonably designed anti-money laundering program, and aiding and abetting. On September 21, 2017, Respondent entered into a Deferred Entry of Judgment with the United States for a period of one month. On October 24, 2017, the United States dismissed the indictment as to Respondent.

³ The two additional conditions are: “Naseem Salem must report any income received from the gambling industry, including but not limited to employment, contracts, consulting, payments from designated agents, and money received from any person or entity in the gambling industry to the Bureau of Gambling Control within 10 days”; and “Naseem Salem must report any income received in the amount of \$10,000 or more from outside the gambling industry to the Bureau of Gambling Control within 60 days.”

1 2016, the Commission extended the validity of Respondent's key employee license until October
2 31, 2018. On or about October 18, 2018, the Commission extended the validity of Respondent's
3 key employee license to October 31, 2020.

4 7. On or about September 8, 2016, the Bureau issued its Cardroom Key Employee
5 Renewal Background Investigation Report, Level III, for Respondent's Key Employee
6 Application in which it recommended that the Commission deny Respondent's Application.

7 8. On October 5, 2016, the Commission referred consideration of Respondent's
8 Application to an evidentiary hearing, which is to be held pursuant to California Code of
9 Regulations, title 4, section 12060.⁴

10 9. On or about October 11, 2016, Respondent submitted a Notice of Defense.

11 **BURDEN OF PROOF**

12 10. Respondent has the burden of proving his qualifications to receive a license.
13 (Bus. & Prof. Code, § 19856, subd. (a).)

14 **CAUSE FOR DENIAL**

15 **(Disqualified and Unqualified – Prior Activities and Non-Disclosure)**

16 11. Respondent's Application is subject to denial because while acting as the Palomar's
17 general manager, he aided and abetted its owners, Donald and Susan Staats (Owners), to commit
18 a number of violations of the Gambling Control Act. Specifically, Respondent aided and abetted
19 Owners in concealing material information from the Commission and the Bureau,⁵ in failing to
20 comply with a Commission order,⁶ and in ceding oversight control of the Palomar to an

21 _____
22 ⁴ The statutes and regulations applicable to this Statement of Reasons are quoted in
pertinent part in Appendix A.

23 ⁵ Before August 28, 2013, Owners came to lack the mental capacity to oversee Palomar's
24 operations and therefore ceded to their daughter oversight control of the Palomar while
Respondent was its general manager. Owners and Respondent did not disclose these
25 developments to the Bureau until 2015.

26 ⁶ On September 5, 2013, by its Decision and Order in Case No. CGCC-2012-0314-2, the
Commission imposed on Owners the condition that any new card room lease, or renewal or
27 modification of a lease, must have the Commission's approval before the effective date of the
lease. Before seeking approval from the Commission, Owners entered into a lease for Palomar
28 with University Heights Associates, LLC, of which Respondent is owner, and while Respondent

1 unlicensed individual, Ms. Lorena Von Kaenel, daughter to the Owners (Daughter). Respondent
2 failed to disclose to, and concealed from, the Bureau the foregoing.

3 12. Respondent's Application is further subject to denial because while acting as general
4 manager of the Palomar, Respondent caused to be delivered to Daughter significant cash
5 payments, along with the usual monthly checks apparently meant for Owners. Respondent failed
6 to disclose to, and concealed from, the Bureau the cash payments

7 13. Each of these acts establishes that Respondent is unqualified for and disqualified from
8 licensure. Each of these acts also demonstrates that Respondent's continued licensure is inimical
9 to the public health, safety, and welfare and a danger to the effective regulation of controlled
10 gambling.

11 (Bus. & Prof. Code, §§ 19850, 19855, 19856, 19857, subds. (a) & (b), 19859, subds. (a) & (b)
12 [mandatory denial], 19866; Cal. Code Regs., tit. 11, § 2052, subd. (c).)

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing the Commission issue a decision:

- 16 1. Denying Respondent's Applications;
17 2. Cancelling Respondent's Key Employee License, Number GEKE-002540; and
18 3. Taking such other and further action as the Commission may deem appropriate.

19
20 Dated: September 28, 2021



21 YOLANDA MORROW, Assistant Director
22 Bureau of Gambling Control
23 California Department of Justice
24 Complainant

25
26
27 _____
28 was general manager of the Palomar. Neither Owners nor Respondent received Commission approval before entering into the lease.

1 **APPENDIX A**

2 **Business and Professions Code**

- 3 1. Business and Professions Code section 19811, subdivision (b), provides:

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

- 8 2. Business and Professions Code, section 19823 provides:

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

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

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

21 (b) For the purposes of this section, “unqualified person” means a
22 person who is found to be unqualified pursuant to the criteria set forth
23 in Section 19857, and “disqualified person” means a person who is
24 found to be disqualified pursuant to the criteria set forth in Section
25 19859.

- 26 3. Business and Professions Code, section 19824 provides, in part:

27 The commission shall have all powers necessary and proper to
28 enable it fully and effectually to carry out the policies and purposes of
this chapter,^[7] 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

⁷ “Chapter” refers to Business and Professions Code, division 8, chapter 5 (commencing with section 19800), also known as the Gambling Control Act.

1 enterprise whether or not the commission takes action against the
2 license of the gambling enterprise.

3 * * *

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

- 7 4. Business and Professions Code, section 19853, subdivision (a), provides, in part:

8 Every person who, either as owner, lessee, or employee, whether
9 for hire or not, either solely or in conjunction with others, deals,
10 operates, carries on, conducts, maintains, or exposes for play any
11 controlled game in this state, or who receives, directly or indirectly,
12 any compensation or reward, or any percentage or share of the money
13 or property played, for keeping, running, or carrying on any controlled
14 game in this state, shall apply for and obtain from the commission, and
15 shall thereafter maintain, a valid state gambling license, key employee
16 license, or work permit, as specified in this chapter. In any criminal
17 prosecution for violation of this section, the punishment shall be as
18 provided in section 337j of the Penal Code.

- 19 5. Business and Professions Code, section 19853, subdivision (a), provides, in part:

20 The commission, by regulation or order, may require that the
21 following persons register with the commission, apply for a finding of
22 suitability as defined in subdivision (i) of [Business and Professions
23 Code, section] 19805, or apply for a gambling license:

24 * * *

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

- 27 6. Business and Professions Code section 19854 provides:

28 * * *

(b) No person may be issued a key employee license unless the
person would qualify for a state gambling license.

7. Business and Professions Code, section 19855 provides:

Except as otherwise provided by statute or regulation, every
person who, by statute or regulation, is required to hold a state license
shall obtain the license prior to engaging in the activity or occupying
the position with respect to which the license is required. Every
person who, by order of the commission, is required to apply for a
gambling license or a finding of suitability shall file the application
within 45 calendar days after receipt of the order.

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8. Business and Professions Code section 19856 provides:

(a) Any person who the commission determines is qualified to receive a state license, having due consideration for the proper protection of the health, safety, and general welfare of the residents of the State of California and the declared policy of this state, may be issued a license. The burden of proving her or his qualifications to receive any license is on the applicant.

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

(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.

9. Business and Professions Code, section 19857 provides:

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

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

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

10. Business and Professions Code section 19859 provides, in part:

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

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

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

1 11. Business and Professions Code, section 19866 provides:

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

5 12. Business and Professions Code, section 19870 provides:

6 (a) The commission, after considering the recommendation of the
7 chief^[8] and any other testimony and written comments as may be
8 presented at the meeting, or as may have been submitted in writing to
9 the commission prior to the meeting, may either deny the application
or grant a license to an applicant who it determines to be qualified to
hold the license.

10 (b) When the commission grants an application for a license or
11 approval, the commission may limit or place restrictions thereon as it
may deem necessary in the public interest, consistent with the policies
described in this chapter.

12 (c) When an application is denied, the commission shall prepare
13 and file a detailed statement of its reasons for the denial.

14 (d) All proceedings at a meeting of the commission relating to a
15 license application shall be recorded stenographically or by audio or
video recording.

16 (e) A decision of the commission denying a license or approval,
17 or imposing any condition or restriction on the grant of a license or
18 approval may be reviewed by petition pursuant to Section 1085 of the
19 Code of Civil Procedure. Section 1094.5 of the Code of Civil
Procedure shall not apply to any judicial proceeding described in the
foregoing sentence, and the court may grant the petition only if the
court finds that the action of the commission was arbitrary and
capricious, or that the action exceeded the commission's jurisdiction.

20 13. Business and Professions Code, section 19871 provides:

21 (a) The commission meeting described in Section 19870 shall be
22 conducted in accordance with regulations of the commission and as
follows:

23 (1) Oral evidence shall be taken only upon oath or
24 affirmation.

25 (2) Each party shall have all of the following rights:

26 (A) To call and examine witnesses.

27 (B) To introduce exhibits relevant to the issues
28 of the case.

⁸ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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(C) To cross-examine opposing witnesses on any matters relevant to the issues, even though the matter was not covered on direct examination.

(D) To impeach any witness, regardless of which party first called the witness to testify.

(E) To offer rebuttal evidence.

(3) If the applicant does not testify in her or his own behalf, he or he may be called and examined as if under cross-examination.

(4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of that evidence over objection in a civil action.

(b) Nothing in this section confers upon an applicant a right to discovery of the department's⁹ investigative reports or to require disclosure of any document or information the disclosure of which is otherwise prohibited by any other provision of this chapter.

14. Business and Professions Code section 19984 provides, in part:

* * *

(a) Any agreement, contract, or arrangement between a gambling enterprise and a third-party provider of proposition player services shall be approved in advance by the department, and in no event shall a gambling enterprise or the house have any interest, whether direct or indirect, in funds wagered, lost, or won.

* * *

California Code of Regulations, title 4

15. California Code of Regulations, title 4, section 12200.7, provides, in part

(e) A proposition player contract shall be consistent with the provisions of Business and Professions Code section 19984, subdivision (a), prohibiting a gambling establishment or the house from having any interest, whether direct or indirect, in funds wagered, lost, or won. No proposition player contract shall be approved that would permit the house to bank any game in the gambling establishment.

⁹ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

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16. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in part:

If the Commission elects to hold an evidentiary hearing, the hearing will be conducted as a GCA hearing under Section 12060, unless the Executive Director or the Commission determines the hearing should be conducted as an APA hearing under Section 12058

17. California Code of Regulations, title 4, section 12060, provides:

(a) If the Executive Director determines it is appropriate, he or he may set an application for consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. The Executive Director shall give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 90 calendar days in advance of the GCA hearing. The Executive Director's determination will be based on information contained in the Bureau's report or other appropriate sources including, without limitation, a request from the Bureau or applicant as well as the Commission's operational considerations. The Commission retains the authority to refer the matter to an APA hearing pursuant to subsection (a) of Section 12056 or hear the matter at a Section 12054 meeting if the Commission deems it appropriate.

(b) When the Commission has elected to hold a GCA hearing, the Executive Director shall give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 60 calendar days in advance of the GCA hearing.

(c) The presiding officer shall have no communication with the Commission or Commission staff upon the merits, or upon information or documents related to the application prior to the evidentiary hearing. The Executive Director shall designate a presiding officer which shall be:

- (1) A member of the Commission's legal staff; or,
- (2) An Administrative Law Judge.

(d) The applicant or the complainant, or the applicant and the complainant, may request a continuance in writing to the Executive Director stating the reason for the continuance and any proposed future hearing dates. The Executive Director or Commission may approve the request.

(e) The complainant shall provide to the applicant, at least 45 calendar days prior to the GCA hearing, and the applicant shall provide to the complainant, at least 30 calendar days prior to the GCA hearing, the following items.

1 (1) A list of potential witnesses with the general subject of
2 the testimony of each witness;

3 (2) Copies of all documentary evidence intended to be
4 introduced at the hearing and not previously provided;

5 (3) Reports or statements of parties and witnesses, if
6 available; and

7 (4) All other written comments or writings containing
8 relevant evidence.

9 (f) A presiding officer shall rule on the admissibility of evidence
10 and on any objections raised except for objections raised under
11 subsection (g). A ruling by the presiding officer shall be final.

12 (1) In advance of the GCA hearing, upon a motion of a party
13 or by order of the presiding officer, the presiding officer may
14 conduct a pre-hearing conference, either in person, via
15 teleconference, or by email exchange, subject to the presiding
16 officer's availability and shall issue a pre-hearing order if
17 appropriate or requested by either party. The pre-hearing
18 conference and order may address the following:

19 (A) Evidentiary issues;

20 (B) Witness and exhibit lists;

21 (C) Alterations in the Bureau recommendation;

22 (D) Stipulation for undisputed facts including the
23 admission of the Bureau's report; and

24 (E) Other issues that may be deemed appropriate to
25 promote the orderly and prompt conduct of the hearing.

26 (2) The GCA hearing need not be conducted according to
27 technical rules of evidence. Any relevant evidence may be
28 considered, and is sufficient in itself to support findings if it is the
sort of evidence on which reasonable persons are accustomed to
rely in the conduct of serious affairs, regardless of the existence of
any common law or statutory rule that might make improper the
admission of that evidence over objection in a civil action.

(g) The Commission may, at any time upon a showing of
prejudice by the objecting party:

(1) Prohibit the testimony of any witness or the introduction
of any documentary evidence that has not been disclosed pursuant
to subsection (e); or

(2) Continue any meeting or hearing as necessary to mitigate
any prejudice.

(h) The complainant shall present all facts and information in the

1 Bureau report, if any, and the results of the Bureau's background
2 investigation, and the basis for any recommendation, if the Bureau
3 filed one with the Commission according to Business and Professions
4 Code section 19868, to enable the Commission to make an informed
5 decision on whether the applicant has met her, his, or its burden of
6 proof. The complainant may but is not required to recommend or seek
7 any particular outcome during the evidentiary hearing, unless it so
8 chooses.

9 (i) The burden of proof is on the applicant at all times to prove
10 her, his, or its qualifications to receive any license or other approval
11 under the Act.

12 (j) The applicant may choose to represent himself, herself, or
13 itself, or may retain an attorney or lay representative.

14 (k) Except as otherwise provided in subsection (g), the
15 complainant and applicant shall have the right to call and examine
16 witnesses under oath; to introduce relevant exhibits and documentary
17 evidence; to cross-examine opposing witnesses on any relevant matter,
18 even if the matter was not covered in direct examination; to impeach
19 any witness, regardless of which party first called the witness to
20 testify; and to offer rebuttal evidence. If the applicant does not testify
21 on her, his or its own behalf, the applicant may be called and
22 examined, under oath, as if under cross-examination.

23 (l) Oral evidence shall be taken upon oath or affirmation, which
24 may be administered by the Executive Director, a member of the
25 Commission, or the presiding officer, if an Administrative Law Judge.

26 (m) At the conclusion of the evidentiary hearing, the members of
27 the Commission shall take the matter under submission, may discuss
28 the matter in a closed session meeting, and may schedule future closed
session meetings for deliberation.

18
19 18. California Code of Regulations, title 4, section 12354, provides, in
20 part:

21 * * *

22 (d) Upon issuance or denial of a regular key employee license by the
23 Commission, the interim license previously issued shall become
24 invalid and shall not be used thereafter.

25 (e) With ten day's advance written notice to the interim key employee
26 and to the gambling enterprise, the Executive Director shall cancel the
27 interim key employee license based upon the following:

28 (5) A Bureau recommendation of denial of the applicant's key
employee application;

* * *

1 19. California Code of Regulations, title 4, section 12355, provides, in
2 part:

3 (a) An application for a portable personal key employee license shall
4 be denied by the Commission if any of the following applies:

5 (1) The Commission finds that the applicant is ineligible,
6 unqualified, disqualified, or unsuitable pursuant to the criteria set
7 forth in the Act or other applicable law or that granting the license
8 would be inimical to public health, safety, welfare, or would
9 undermine the public trust that gambling operations are free from
10 criminal or dishonest elements

11 * * *

12 (b) An application for a key employee license may be denied if:

13 * * *

14 (2) The Commission finds that the applicant's past behavior calls
15 into question the applicant's qualification requirements and
16 considerations outlined in Business and Professions Code section
17 19856.

18 * * *

19 (3) The Commission finds that the applicant has, within ten years
20 immediately preceding the submission of the application, willfully
21 or persistently violated any of the following:

22 (A) Any regulation adopted by the Commission or Bureau.

23 * * *

24 **California Code of Regulations, title 11**

25 20. California Code of Regulations, title 11, section 2052, provides, in part:

26 (c) Within five days of any owner licensee or key employee
27 obtaining knowledge or notice of any possible violation of the Act or
28 these regulations, a written report shall be submitted to the Bureau,
which details the nature of the violation, the identities of those persons
involved in the violation, and describes what actions have been taken to
address the violation.