

RECEIVED BY
CGCC LEGAL DIVISION

2012 MAR 21 AM 8:50

1 KAMALA D. HARRIS
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 RONALD L. DIEDRICH
Deputy Attorney General
4 State Bar No. 95146
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-1043
Fax: (916) 327-2319
7 E-mail: Ronald.Diedrich@doj.ca.gov
Attorneys for Complainant

8
9
10 **BEFORE THE**
11 **CALIFORNIA GAMBLING CONTROL COMMISSION**
12 **STATE OF CALIFORNIA**

13
14 **In the Matter of the Statement of Issues**
Against:

BGC Case No. BGC-HQ2011-0001

OAH No. _____

16 **HAIG KELEGIAN, JR., partner**
OCEAN'S ELEVEN CASINO

STATEMENT OF ISSUES

17
18 
19 **License No. GEOW-001222**

Respondent.

22
23 Complainant alleges as follows:

24 **PARTIES**

25 1. Martin Horan IV (Complainant) brings this Statement of Issues solely in his official
26 capacity as the Acting Chief of the California Department of Justice, Bureau of Gambling Control
27 (Bureau).
28

1 8. Business and Professions Code section 19823 provides:

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

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

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

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

20 9. Business and Professions Code section 19824 provides in part:

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

25 * * *

26 (b) For any cause deemed reasonable by the commission, deny
27 any application for a license, permit, or approval provided for in this
28 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.

1 13. Business and Professions Code section 19858, subdivision (a), provides, in part:

2 [A] person shall be deemed to be unsuitable to hold a state gambling
3 license to own a gambling establishment if the person, or any partner,
4 officer, director, or shareholder of the person, has any financial interest
5 in any business or organization that is engaged in any form of gambling
6 prohibited by section 330 of the Penal Code, whether within or without
7 this state.

8 14. Business and Professions Code section 19858.5 provides:

9 Notwithstanding Section 19858, the commission may, pursuant to
10 this chapter,^[3] deem an applicant suitable to hold a state gambling
11 license even if the applicant or licensee has a financial interest in another
12 business that conducts lawful gambling outside the state that, if
13 conducted within California, would be unlawful, provided that an
14 applicant or licensee may not own, either directly or indirectly, more
15 than 1 percent interest in, or have control of, that business.

16 15. Business and Professions Code section 19859 provides in part:

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

19 * * *

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

26 16. Penal Code section 330 provides:

27 Every person who deals, plays, or carries on, opens, or causes to be
28 opened, or who conducts, either as owner or employee, whether for hire
or not, any game of faro, monte, roulette, lansquenet, rought et noir,
rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any
banking or percentage game played with cards, dice, or any device, for
money, checks, credit, or other representative of value, and every
person who plays or bets against any of those prohibited games is
guilty of a misdemeanor, and shall be punished by a fine not less than

29 ³ Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,
(commencing with section 19800), also known as the Gambling Control Act.

1 one hundred dollars (\$100) nor more than one thousand dollars
2 (\$1,000) or by imprisonment in the county jail not exceeding six
3 months, or by both fine and imprisonment.

4 17. Penal Code section 330b provides in part:

5 (a) It is unlawful for any person to manufacture, repair, own,
6 store, possess, sell, rent, lease, let on shares, give away, transport, or
7 expose for sale or lease, or offer to repair, sell, rent, lease, let for
8 shares, lend or give away, or permit the operation, placement,
9 maintenance, or keeping of, in any place, room space, or building
10 owned, leased, or occupied, managed, or controlled by that person, any
11 slot machine or device, as defined in this section.

12 It is unlawful for any person to make or to permit the making of an
13 agreement with another person regarding any slot machine or device,
14 by which the user of the slot machine or device, as a result of the
15 element of hazard or chance or other unpredictable outcome, may
16 become entitled to receive money, credit, allowance, or other thing of
17 value or additional chance or right to use the slot machine or device, or
18 to receive any check, slug, token, or memorandum entitling the holder
19 to receive money, credit, allowance, or other thing of value.

20 18. Penal Code section 330c provides:

21 A punchboard as hereinafter defined is hereby declared to be a slot
22 machine or device within the meaning of section 330b of this code and
23 shall be subject to the provisions thereof. For the purposes of this
24 section, a punchboard is any card, board or other device which may be
25 played or operated by pulling, pressing, punching out or otherwise
26 removing any slip, tab, paper or other substance therefrom to disclose
27 any concealed number, name or symbol.

28 FIRST CAUSE FOR DENIAL OF APPLICATION

(Unsuitable for Licensure – Financial Interest in Prohibited Gambling: Banked Games)

19. Respondent's application for a state gambling license is subject to denial pursuant to
Business and Professions Code sections 19858, subdivision (a), and 19858.5, in that the
Respondent has, directly or indirectly, more than a one percent financial/ownership interest in a
business that conducts, or at the relevant time conducted, lawful gambling outside of California

1 that, if conducted within California, would be unlawful. Respondent, as co-owner⁴ of Kelco
2 Gaming, LLC, doing business as Skyway Casino and Bowl (Kelco), has directly or indirectly,
3 more than a one percent financial/ownership interest in Lucky Dragonz Casino – Skyway
4 (Skyway)⁵ a cardroom that provides, or at the relevant time provided, house-banked games in
5 Seattle, Washington, that if located in California would be operating in violation of Penal Code
6 section 330.

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

8 **(Unsuitable for Licensure – Control of Prohibited Gambling: Banked Games)**

9 20. Respondent's application for a state gambling license is subject to denial pursuant to
10 Business and Professions Code sections 19858, subdivision (a), and 19858.5 in that the
11 Respondent has, directly or indirectly, control of a business that conducts, or at the relevant time
12 conducted, lawful gambling outside of California that, if conducted within California would be
13 unlawful. Respondent, directly or indirectly, as an owner, managing owner, and/or source of
14 funding for Kelco, has control of Skyway, a cardroom that provides, or at the relevant time
15 provided, house-banked games in Seattle, Washington, that if located in California would be
16 operating in violation of Penal Code section 330.

17 **THIRD CAUSE FOR DENIAL OF APPLICATION**

18 **(Unsuitable for Licensure – Financial Interest in Prohibited
19 Gambling: Slot Machines or Devices)**

20 21. Respondent's application for a state gambling license is subject to denial pursuant to
21 Business and Professions Code sections 19858 and 19858.5, in that the Respondent has, directly or
22 indirectly, more than a one percent financial/ownership interest in a business that lawfully owns,
23 possess, allows, operates, permits, maintains, manages and/or offers for play slot machines or
24 devices outside of California at times relevant to this statement of issues. Such activities are, and
25 at all relevant times were, unlawful within California. Respondent, as a co-owner of Kelco, has,

26 _____
27 ⁴ The other co-owner of Kelco Gaming, LLC, is Respondent's wife, Marlene Kelegian.

28 ⁵ In Respondent's initial application in Washington for this cardroom it was named
Skyway Casino and Bowl. It was subsequently changed to Lucky Dragonz Casino – Skyway.

1 directly or indirectly, more than a one percent financial/ownership interest in the bowling alley
2 attached to Skyway where punchboard/pull-tabs (slot machines or devices) are, or at all relevant
3 times were, allowed, operated, permitted, maintained, managed, sold and/or offered for play. Such
4 activities are unlawful within California, in violation of Penal Code sections 330, 330b, and 330c.

5 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

6 **(Unsuitable for Licensure – Control of Prohibited Gambling: Slot Machines or Devices)**

7 22. Respondent's application for a state gambling license is subject to denial pursuant to
8 Business and Professions Code sections 19858 and 19858.5, in that the Respondent has, directly or
9 indirectly, control of a business that owns, possess, allows, operates, permits, maintains, manages
10 and/or offers for play slot machines or devices lawfully outside of California at times relevant to
11 this statement of issues. Such activities are, and at all relevant times were, unlawful within
12 California. Respondent, as an owner, managing owner, and/or source of funding for Kelco has,
13 directly or indirectly, control of the bowling alley attached to Skyway where punchboard/pull-tabs
14 (slot machines or devices) are, or at all relevant times were, allowed, operated, permitted,
15 maintained, managed, sold and/or offered for play. Such activities are unlawful within California,
16 in violation of Penal Code sections 330, 330b, and 330c.

17 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

18 **(Disqualified for Licensure – Undisclosed Interest in Prohibited Gambling)**

19 23. Respondent's application for a state gambling license is subject to denial pursuant to
20 Business and Professions Code section 19859, subdivision (b) in that the Respondent failed to
21 disclose or reveal a fact material to qualification for licensure and/or supplied information that is
22 untrue or misleading as to a material fact pertaining to the qualification for licensure.⁶ While
23 Respondent's application to renew his endorsement on the license for Ocean's Eleven Casino was
24 being evaluated by the Bureau, Respondent failed to disclose or reveal that Kelco had leased the
25 facilities and had applied to the State of Washington for a license to operate Lucky Dragonz

26 ⁶ On or about December 2, 2010, Respondent informed the Bureau of his intent to obtain
27 an ownership interest in one, unidentified licensed cardroom in the State of Washington. The
28 Bureau was subsequently able to determine through its investigation that the cardroom was most
probably Skyway.

1 Casino,⁷ a cardroom that offers house-banked games, as well as punchboard/pull-tabs (slot
2 machines or devices), in Lakewood, Washington that if located in California would be operating in
3 violation of Penal Code section 330, 330b, and 330c.⁸

4 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

5 **(Unqualified for Licensure)**

6 24. Respondent's application for a state gambling license is subject to denial pursuant to
7 Business and Professions Code section 19857, subdivisions (a) and (b) in that the Respondent has
8 failed to demonstrate that he is a person of good character, honesty, and integrity; and that his
9 prior activities, reputation, habits and/or associations do not pose a threat to the public interest of
10 California, or to the effective regulation and control of controlled gambling, or create or enhance
11 the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
12 controlled gambling or in the carrying on of the business and financial arrangements incidental
13 thereto. As a holder of a California state gambling license and as a result of the 2006 settlement *In*
14 *the Matter of: Haig Kelegian, Jr., Shareholder in Ocean's 11, Inc.*, CGCC Case Number 2006-3,
15 in which Respondent consented to pay a fine of \$2,500.00 for having a financial interest in an out-
16 of-state business that was engaged in house banking, Respondent knew of the restrictions and
17 prohibitions regarding having a direct or indirect interest in and/or control of such an out-of-state
18 gambling enterprise. Nevertheless, as noted in paragraphs 19 through 23 above, and incorporated
19 herein by reference, Respondent again engaged and/or attempted to engage in such out-of-state
20 gambling activities in two additional cardrooms in the State of Washington, one of which he also
21 failed to disclose to the Bureau.

22
23
24
25 ⁷ Although similar in name to Lucky Dragonz Casino - Skyway, Lucky Dragonz Casino is
26 a different cardroom, located in a different city in the State of Washington, than Lucky Dragonz
27 Casino - Skyway. Lucky Dragonz Casino is also known as Happy Days Casino.

28 ⁸ Kelco subsequently withdrew its application to offer house-banked games at Lucky
Dragonz Casino in Lakewood, Washington on or about March 2, 2011. The application for a
punchboard/pull-tab license was withdrawn for that location on or about February 23, 2011.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

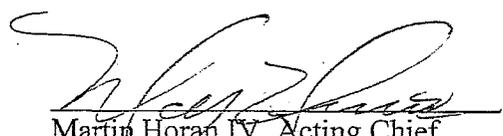
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Commission issue a decision:

1. Denying the Application for a State Gambling License submitted by Haig Kelegian, Jr., license number GEOW-001222, to renew his endorsement on the license for Ocean's Eleven Casino, license number GEGE-000473;

2. Awarding Complainant the costs of investigation and costs of bringing this Statement of Issues before the Commission, pursuant to Business and Professions Code section 19930, subdivisions (d) and (f), in a sum according to proof; and

3. Taking such other and further action as the Commission may deem appropriate.

Dated: March 15, 2012


Martin Horan IV, Acting Chief
Bureau of Gambling Control
Department of Justice
State of California
Complainant