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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

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

CGCC Case No. CGCC-2010-12-21

OAH No.

**TIMOTHY J. LONG, sole proprietor
HEMPHILL'S LOUNGE AND
CARDROOM**

**1144 Jordan Lane
Napa, California 94588**

STATEMENT OF ISSUES

Respondent.

Anna S. Carr, Complainant herein, alleges as follows:

PARTIES

1. Anna S. Carr (“Complainant”) brings this Statement of Issues solely in her official capacity as Deputy Director, Legislation and Regulatory Affairs, California Gambling Control Commission (Commission).

2. On or about March 17, 2006 the Bureau of Gambling Control, California Department of Justice (Bureau) received an Application for a State Gambling License submitted by Timothy J. Long (Respondent), sole proprietor, Hemphill's Lounge and Cardroom, which is located in Napa, California. On or about August 16, 2006, the Bureau received a Supplemental Information for a State Gambling License submitted by Respondent.

3. At the December 9, 2010 Commission meeting the Commission voted to deny Respondent's application for licensure.

4. On or about December 13, 2010 Respondent requested the Commission reconsider its December 9, 2010 denial of Respondent's application for licensure. On or about December 21, 2010 the Commission denied that request.

5. On or about December 21, 2010 Respondent requested a hearing regarding the Commission's December 9, 2010, denial of his application for a State Gambling License.

JURISDICTION

6. 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.

7. 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.

8. Business and Professions Code section 19824 provides in part:

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

* * *

(b) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter or regulations adopted pursuant to this chapter, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved.

* * *

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

COST RECOVERY

9. Business and Professions Code section 19930 provides in part:

(d) In any case in which the administrative law judge recommends that the commission revoke, suspend, or deny a license, the administrative law judge may, upon 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.

* * *

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

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

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

1 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

2 10. Business and Professions Code section 19856, subdivision (a) provides in part:

3 The burden of proving his or her qualifications to receive any license
4 is on the applicant.

5 11. Business and Professions Code section 19857 provides in part:

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

8 * * *

9 (b) A person whose prior activities, criminal record, if any,
10 reputation, habits, and associations do not pose a threat to the public
11 interest of this state, or to the effective regulation and control of
12 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.

13 12. Business and Professions Code section 19859 provides in part:

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

16 (a) Failure of the applicant to clearly establish eligibility
17 and qualification in accordance with this chapter.^[1]

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

22 13. Business and Professions Code section 19862, subdivision (a), provides in part:

23 In addition to other grounds stated in this chapter, the commission
24 may deny a gambling license for any of the following reasons:

25 * * *

26

27 ¹ Here and after "chapter" refers to Business and Professions Code, division 8, chapter 5
28 (commencing with section 19800), also known as the Gambling Control Act.

(2) If an applicant fails to conduct an economic feasibility study that demonstrates to the satisfaction of the commission . . . that the owners have sufficient resources to make the gambling establishment successful.

14. California Code of Regulations, title 11, section 2053, subdivision (a), provides:

The Bureau may require a gambling establishment to present satisfactory evidence that there is adequate financing available to protect the public's health, safety and welfare.

FIRST CAUSE FOR DENIAL OF APPLICATION
(Unqualified Financially for Licensure)

15. Respondent's application for a state gambling license is subject to denial pursuant to Business and Professions Code sections 19856, subdivision (a), and 19857, subdivision (b), in that the amount and/or nature of Respondent's outstanding debts and ongoing contractual disputes are such that he failed to demonstrate that his financial circumstances and/or his reputation and/or habit of financial dealings do not 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.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Disqualified for Licensure – Failure to Establish Financial Eligibility and Qualification)

16. Respondent's application for a state gambling license is subject to denial pursuant to Business and Professions Code sections 19856, subdivision (a), and 19859, subdivision (a), in that Respondent failed to present satisfactory evidence that despite his outstanding debts and ongoing contractual disputes he clearly has adequate financing available to protect the public's health, safety and welfare if licensed as sole proprietor of Hemphill's Lounge and Cardroom as required by California Code of Regulations, title 11, section 2053, subdivision (a).

THIRD CAUSE FOR DENIAL OF APPLICATION

(Insufficient Resources)

17. Respondent's application for a state gambling license is subject to denial pursuant to Business and Professions Code sections 19856, subdivision (a), and 19862, subdivision (a)(2), in that Respondent failed to conduct an economic feasibility study that satisfactorily demonstrated that despite the amount and nature of his outstanding debts and ongoing contractual disputes he still has sufficient financial resources to make Hemphill's Lounge and Cardroom a successful gambling establishment.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Disqualified for Licensure – Failure to Provide Assurances of Financial Suitability)

18. Respondent's application for a state gambling license is subject to denial pursuant to Business and Professions Code sections 19856, subdivision (a), and 19859, subdivision (b), in that Respondent failed to provide adequate information, documentation and/or assurances that despite the amount and nature of his outstanding debts and ongoing contractual disputes he is financially suitable for licensure as the sole proprietor of Hemphill's Lounge and Cardroom such that: 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 are not created or enhanced (Bus. & Prof. Code, § 19857, subd. (b)); that he has sufficient financial resources to make Hemphill's Lounge and Cardroom successful (Bus. & Prof. Code, § 19862, subd. (a)(2)); and/or that he clearly has adequate financing available to protect the public's health, safety and welfare if licensed as sole proprietor of Hemphill's Lounge and Cardroom (Cal. Code Regs., tit. 11, §2053, subd. (a)).

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 of Timothy J. Long (Respondent) for a California State Gambling License as sole proprietor of Hemphill's Lounge and Cardroom.

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

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

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6 Dated: June 1, 2012

7 
8 ANNA S. CARR, Deputy Director,
9 Legislation and Regulatory Affairs
10 California Gambling Control Commission
11 State of California
12 Complainant

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