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KAMALA D. HARRIS
Attorney General of California
SARA J. DRAKE
Senior Assistant Attorney General
RANDALL A. PINAL
Supervising Deputy Attorney General
RONALD L. DIEDRICH
Deputy Attorney General, SBN 95146
JENNIFER T. HENDERSON
Deputy Attorney General, SBN 206231
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-1043
Fax: (916) 327-2319
E-mail: Ronald.Diedrich@doj.ca.gov
Attorneys for Complainant

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CALIFORNIA GAMBLING
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BEFORE THE

CALIFORNIA GAMBLING CONTROL COMMISSION

STATE OF CALIFORNIA

**In the Matter of the Statement of Reasons
for Denial of License Application
Regarding:**

**UNIVERSITY HEIGHTS ASSOCIATES,
LLC; NASEEM SALEM, Managing
Member, ADEL SALEM, Member**

**1011 Camino Del Rio, Suite 210
San Diego, CA 92104**

Respondent.

BGC Case No. BGC SD-2010-00017
CGCC Case No: CGCC-2012-0314-4
OAH No.

**STATEMENT OF REASONS FOR
DENIAL OF LICENSE APPLICATION**

Hearing Date: October 15 - 23, 2012
Time: 9:30 a.m.

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1 Complainant alleges as follows:

2 **PARTIES**

3 1. Martin Horan IV (Complainant) brings this Statement of Reasons for Denial solely in
4 his official capacity as the Acting Chief of the California Department of Justice, Bureau of
5 Gambling Control (Bureau).

6 2. University Heights Associates, LLC (Respondent or University Heights) owns the
7 building that is leased to the Palomar Card Club (Palomar). Naseem Salem and Adel Salem are
8 the sole members of University Heights, and Naseem Salem is University Heights' managing
9 member. The California Gambling Control Commission (Commission) reviewed the lease
10 agreement and financial arrangements between University Heights and Palomar in the course of its
11 consideration of the renewal application of Palomar's gambling license in 2009. At its November
12 24, 2009 meeting, the Commission placed the following condition on the gambling license of
13 Palomar, license number GEGE-001008: "Mr. Naseem Salem, Mr. Adel Salem and University
14 Heights Associates LLC shall submit a state gambling license application to the California
15 Gambling Control Commission within 90 days."

16 3. On or about March 30, 2010, the Commission received an Application for a State
17 Gambling License (application) submitted by University Heights as a financial interest holder and
18 landlord of the premises leased to Palomar in El Cajon, California.

19 4. Complainant recommended to the Commission that Respondent's application be
20 denied on the basis that Naseem Salem was not suitable for licensure and therefore University
21 Heights was not suitable for licensure. Rather than adopt the recommendation, at its February 23,
22 2012 meeting, the Commission referred the question of Respondent's suitability for licensure to an
23 evidentiary hearing.

24 5. On or about March 14, 2012, pursuant to California Code of Regulations, title 4,
25 section 12050, subdivision (b), the Executive Director of the Commission set the matter for a
26 hearing to be conducted pursuant to the provisions of Business and Professions Code sections
27 19870 and 19871.

28

1 10. Business and Professions Code section 19824 provides in part:

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

6 * * *

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

16 * * *

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

20 11. Business and Professions Code section 19870 provides:

21 (a) The commission, after considering the recommendation of the
22 chief and any other testimony and written comments as may be
23 presented at the meeting, or as may have been submitted in writing to
24 the commission prior to the meeting, may either deny the application or
25 grant a license to an applicant who it determines to be qualified to hold
26 the license.

27 (b) When the commission grants an application for a license or
28 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.

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

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

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

9
10 12. Business and Professions Code section 19871 provides:

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

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

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

16 (A) To call and examine witnesses.

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

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

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

23 (E) To offer rebuttal evidence.

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

26 (4) The meeting need not be conducted according to technical
27 rules relating to evidence and witnesses. Any relevant evidence
28 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's² investigative reports or to require

² "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. &
(continued...)

1 disclosure of any document or information the disclosure of which is
2 otherwise prohibited by any other provision of this chapter.

3 **COST RECOVERY**

4 13. Business and Professions Code section 19930 provides in part:

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

10 * * *

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

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

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

16 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

17 14. Business and Professions Code section 19850, subdivision (a) provides in part:

18 Every person who, either as owner, lessee, or employee, whether for
19 hire or not, either solely or in conjunction with others, deals, operates,
20 carries on, conducts, maintains, or exposes for play any controlled game in
21 this state, or who receives, directly or indirectly, any compensation or
22 reward, or any percentage or share of the money or property played, for
23 keeping, running, or carrying on any controlled game in this state, shall
24 apply for and obtain from the commission, and shall thereafter maintain, a
25 valid state gambling license, key employee license, or work permit, as
26 specified in this chapter.

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

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

(...continued)
Prof. Code, § 19805, subd. (h.)

1 16. Business and Professions Code section 19857 provides in part:

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

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

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

13 17. Business and Professions Code section 19920 provides:

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

23 18. Business and Professions Code section 19924 provides:

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

27 **FIRST CAUSE FOR DENIAL OF APPLICATION**

28 **(Unsuitable for Licensure – Owner and Manager Naseem Salem Unsuitable for Licensure
due to Unsuitable Methods of Operation and Failure to Maintain Security Controls:
Conduct of Personal Transactions on Gambling Establishment Premises)**

19. Respondent's application is subject to denial pursuant to Business and Professions
Code section 19857, subdivision (b), in that it is owned and managed by Naseem Salem, who is
unsuitable for licensure because, as the manger and key employee of Palomar, Naseem Salem
failed to operate that gambling establishment using suitable methods of operation and failed to

1 maintain security controls in violation of Business and Professions Code sections 19920 and
2 19924, in that:

3 a. On or about January 11, 2010, on behalf of, and at the direction of, Naseem Salem,
4 Palomar cage cashier Amen Abraham paid \$10,000 in cash to Cynthia Morrello, owner of Morrello
5 Concrete Construction, Inc. (Morrello Concrete), at the gambling establishment's cage for
6 construction work performed for Naseem Salem's benefit. The work performed by Morrello
7 Concrete was not in any way related to the operation of Palomar. The source of the \$10,000 cash
8 payment was Naseem Salem's "marker"³ at Palomar.

9 b. Between on or about December 16, 2009, and on or about February 8, 2010, on behalf
10 of, and at the direction of, Naseem Salem, Palomar's cage manager Sabrina Konja made three (3)
11 separate \$10,000 cash payments to Cynthia Morrello in the gambling establishment for
12 construction work performed by Morrello Concrete for Naseem Salem's benefit. The work
13 performed by Morrello Concrete was not in any way related to the operation of Palomar. On or
14 about December 16, 2009, on behalf of, and at the direction of, Naseem Salem, Sabrina Konja
15 made one (1) of those \$10,000 cash payments to Cynthia Morello from cash withdrawn from
16 Naseem Salem's Palomar player's bank.⁴

17 c. Between on or about January 29, 2010, and on or about March 19, 2010, on three (3)
18 separate occasions, Naseem Salem paid Joseph Morello of Morello Concrete in cash payments in
19 the gambling establishment for construction work performed for Naseem Salem's benefit. The
20 work performed by Morrello Concrete was not in any way related to the operation of Palomar.

21 20. Naseem Salem conducted business transactions for his non-gaming businesses in the
22 gambling establishment; he used his position as manager and key employee to require Palomar
23 employees to aide in conducting these transactions; and/or he used his position as manager and

24 ³ A "marker" is commonly understood to be a written promise to repay money loaned by
25 the gambling establishment to a patron for the purpose of gambling. Respondent, as the key
26 employee and manager of Palomar, authorized his own loan (marker) of gambling establishment
27 monies to himself for non-gambling purposes.

28 ⁴ "'Player's bank' means the total amount of moneys a patron of the gambling
establishment has on deposit with the gambling establishment." (Cal. Code Regs., tit. 4, § 12400,
subd. (b)(11)).

1 key employee to use Palomar's financial resources to conduct these transactions. Such conduct
2 constitutes an unsuitable method of operation and a failure to maintain security controls in
3 violation of Business and Professions Code sections 19920 and 19924.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 **(Unsuitable for Licensure – Owner and Manager Naseem Salem Unsuitable for Licensure**
6 **due to Unsuitable Methods and Failure to Maintain Security Controls: Intertwining of**
7 **Cardroom and Third-Party Proposition Provider Operations)**

8 21. Respondent's application is subject to denial pursuant to Business and Professions
9 Code section 19857, subdivision (b), in that it is owned and managed by Naseem Salem, who is
10 unsuitable for licensure because, as the key employee and manager of Palomar, between on or
11 about March 1, 2006, and on or about November 21, 2011, he allowed the function, operation and
12 control of Palomar and the former third-party proposition player provider for Palomar, ATS
13 Gaming, Inc. (ATS), to be improperly intertwined in violation of Business and Professions Code
14 sections 19920 and 19924, in that:

15 a. The contract between ATS and Palomar submitted by Naseem Salem to the Bureau did
16 not reveal that ATS shared office space with Palomar in the gambling establishment.

17 b. On at least three (3) occasions, at the direction of Naseem Salem, ATS employees
18 made large cash withdrawals from Palomar's bank account on behalf of the gambling
19 establishment.

20 c. On at least one (1) occasion, ATS employees counted the table fee collections on
21 behalf of Palomar.

22 d. Naseem Salem allowed ATS to maintain and move large sums of cash out of the ATS
23 safe that was improperly located in Palomar's cage.

24 22. As the key employee and manager, Naseem Salem allowed the functions, operation
25 and control of ATS and Palomar to be improperly intertwined, which is an unsuitable method of
26 operation and a failure to maintain security controls in violation of Business and Professions Code
27 sections 19920 and 19924.
28

PRAYER

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

1. Denying the Application for a State Gambling License submitted by University Heights Associates, LLC;
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: August 10, 2012



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