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**BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA**

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

**STAR'S CASINO, formerly known as the
Comstock Casino (GEGE-001082);**

STAR'S GAMING, INC. (GEOW-003460);

JOSEPH A. MELECH (GEOW-003461);

MONICA M. MELECH (GEOW-003462);

**EMMANUEL MACALINO (GEOW-
003456)**

**775 West Clover Road
Tracy, CA 95376**

Respondents.

OAH No.
BGC Case No. BGC-HQ2018-00030SL
STATEMENT OF ISSUES

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Stephanie Shimazu (Complainant) brings this Statement of Issues solely in her
4 official capacity as the Director of the California Department of Justice, Bureau of Gambling
5 Control (Bureau).

6 2. Respondent Star's Casino (Star's Casino), formerly known as the Comstock
7 Casino, is a licensed gambling establishment, California State Gambling License Number
8 GEGE-001082. It is an eight-table card room presently operating at 775 West Clover Road,
9 Tracy, California. It changed its name and relocated to 775 West Clover Road in 2013. It
10 presently is a sole proprietorship.

11 3. In April 2013, the following initial applications for a state gambling license
12 under the Gambling Control Act (Act) were submitted. Each was assigned the license number
13 set forth below.

14 a. Respondent Star's Gaming, Inc. (Corporation), license number GEOW-
15 003460, applied for a state gambling license to do business as, own, and
16 operate Star's Casino.

17 b. Respondent Joseph A. Melech (Mr. Melech), who currently is endorsed
18 on Star's Casino's license as its sole proprietor, applied for a state
19 gambling license to be one of the Corporation's shareholders. His license
20 number is GEOW-003461.

21 c. Respondent Monica M. Melech (Mrs. Melech), who currently is endorsed
22 on Star's Casino's license as its sole proprietor, applied for a state
23 gambling license to be one of the Corporation's shareholders. Her
24 license number is GEOW-003462.

25 d. Respondent Emmanuel Macalino applied for a state gambling license to
26 be one of the Corporation's shareholders. His license number is GEOW-
27 003456.

1 provided in the Act. (Bus. & Prof. Code, § 19824, subd. (c).) The Commission powers also
2 include requiring persons, who, in its judgment, have the power to exercise a significant
3 influence over a gambling operation, to register with the Commission, apply for a finding of
4 suitability, or apply for a gambling license. (Bus. & Prof. Code, § 19853, subd. (a)(6).) The
5 Act directs that every applicant for licensing or any approval required by the Act make full and
6 true disclosure of all information necessary to carry out the state’s policies relating to licensing
7 and control of gambling. (Bus. & Prof. Code, § 19866.)

8 **FIRST CAUSE FOR DENIAL OF APPLICATIONS**

9 **(Unqualified for Licensure)**

10 10. Respondents’ applications for state gambling licenses are subject to denial
11 pursuant to Business and Professions Code sections 19823, 19857, subdivisions (a) and (b), and
12 19901. Respondents’ conduct in their dealings with the Commission and the Bureau
13 demonstrate that they are unqualified for licensure. That conduct includes, but is not limited to,
14 the following acts and omissions:

- 15 a. Respondents failed to timely make full and true disclosure of information
16 necessary to carry out the state’s policies relating to licensing and control of
17 gambling. Respondents initially did not disclose agreements regarding financing
18 and ownership arrangements to the Bureau and the Commission. Without the
19 Commission’s prior approval, Mr. Macalino provided more than \$1 million in
20 loans for Star’s Casino’s use. Mr. Macalino, at his option, could convert those
21 loans into an ownership interest in Star’s Casino through the Corporation. The
22 loan proceeds were used to remodel and relocate the gambling establishment.
23 Mr. Macalino was not licensed as an owner of, or financial interest holder in,
24 Star’s Casino. In sum, Respondents entered into an undisclosed venture, which
25 included funding by an unlicensed person, to remodel premises, relocate the
26 gambling establishment, and become co-owners. This breached Respondents’
27 disclosure and licensing duties under the Act and made them unqualified for
28 licensing.

- 1 b. Even though Respondents had applications for licenses and other approvals
2 pending before the Commission, they failed to fully disclose the venture, the
3 financing sources, and the option to acquire an ownership interest. These acts
4 and omissions breached Respondents' duties under the Act and made them
5 unqualified for licensing.
- 6 c. Respondents engaged in patterns and practices that demonstrate a substantial
7 disregard for prudent and usual business practices. They failed to fully
8 document the transactions by which more than \$1 million was provided to Star's
9 Casino and by which Mr. Macalino had a right to obtain an ownership interest in
10 Star's Casino. For nearly three years, Respondents provided incomplete
11 transactional documents to the Bureau. When asked for complete transactional
12 documents, Respondents through their designated agent made false or
13 misleading statements to the Bureau. Respondents' disregard for prudent and
14 usual business practices and providing false or misleading information to the
15 Bureau pose a threat to the public interest and the effective regulation and
16 control of controlled gambling. Respondents engaged in unsuitable patterns and
17 practices in the conduct of controlled gambling or in carrying on the business
18 and financial arrangements incidental to controlled gambling. This made
19 Respondents unqualified for licensing.
- 20 d. Respondents engaged in patterns and practices that demonstrate they pose a
21 threat to effective regulation and control of controlled gambling. Respondents
22 did not obtain the Commission's approval prior to conducting the transactions
23 described in this Statement of Issues. Respondents did not fully disclose those
24 transactions. This made Respondents unqualified for licensing.

25 **SECOND CAUSE FOR DENIAL OF APPLICATIONS**

26 **(Disqualification: Failing To Reveal Material Information to the Bureau)**

- 27 11. Respondents' applications for state gambling licenses are subject to denial
28 pursuant to Business and Professions Code sections 19823, 19857, subdivisions (a) and (b),

1 19859, subdivisions (a) and (b), and 19901. Respondents breached their duty of full and true
2 disclosure to the Commission and the Bureau. Respondents failed to reveal to, and concealed
3 from, the Bureau material information regarding a financial interest holder, indebtedness, and a
4 prospective ownership interest, including, but not limited to, the following:

- 5 a. Respondents failed to timely make full and true disclosure of information
6 necessary to carry out the state's policies relating to licensing and control of
7 gambling. Respondents did not disclose agreements regarding financing and
8 ownership arrangements. Mr. Macalino provided more than \$1 million in loans
9 for Star's Casino's use. Mr. Macalino, at his option, could convert those loans
10 into an ownership interest in Star's Casino through the Corporation. The loan
11 proceeds were used to remodel and relocate the gambling establishment. Mr.
12 Macalino was not licensed as an owner of, or financial interest holder in, Star's
13 Casino. In sum, Respondents entered into an undisclosed venture, which
14 included funding by an unlicensed person, to remodel premises, relocate the
15 gambling establishment, and become co-owners. This information was material
16 to Respondents' qualification for licensure under the Act. These acts and
17 omissions breached Respondents' duties under the Act and disqualified them
18 from licensing.
- 19 b. Even though Respondents had license applications and other approvals pending
20 before the Commission, they failed to fully disclose the venture, the financing
21 sources, and giving an option to acquire an ownership. This information was
22 material to Respondent's qualification for licensure under the Act. These acts
23 and omissions breached Respondents' duties under the Act and disqualified them
24 from licensing.

25 **THIRD CAUSE FOR DENIAL OF APPLICATIONS**

26 **(Disqualification: Providing Untrue or Misleading Material Information)**

27 12. Respondents' applications for state gambling licenses are subject to denial,
28 pursuant to Business and Professions Code sections 19823, 19857, subdivisions (a) and (b), and

1 19859, subdivisions (a) and (b). Respondents breached their duty of full and true disclosure to
2 the Commission and the Bureau. Respondents provided the Bureau with untrue or misleading
3 material information pertaining to the qualification criteria for licensing. Specifically, among
4 other things, Respondents repeatedly represented through an agent that all documents for the
5 proposed transactions had been provided to the Bureau; Respondents' agent also represented
6 that their attorney felt complete documentation of the proposed transactions was not required.
7 These representations were untrue or misleading.

8 **FOURTH CAUSE FOR DENIAL OF APPLICATIONS**

9 **(Unlicensed Activities)**

10 13. Respondents' applications for state gambling licenses are subject to denial
11 pursuant to Business and Professions Code sections 19823, 19850, 19855, and 19857,
12 subdivisions (a) and (b). Respondents engaged in a course of conduct by which Mr. Macalino
13 performed the duties of a key employee in connection with the operation of Star's Casino. Mr.
14 Macalino, among other tasks, did the following: discussed long and short term strategic goals of
15 the card room; communicated with Third Party Providers of Proposition Player Services (third-
16 party provider) to assist in maintaining a mutually beneficial relationship with the card room;
17 reviewed and analyzed collection rates, games, gaming activities, and promotions; assisted in
18 developing checks and balances among the card room's departments; coordinated with outside
19 industry consultants regarding Star's Casino's operations; reviewed third-party provider
20 contracts and made recommendations to improve operations; assisted in recruiting key
21 employees and staff by interviewing and assessing applicants' strengths and weaknesses; and
22 made recommendations to Mr. Melech and Star's Casino's general manager. Mr. Macalino was
23 not licensed as a key employee or an owner. Respondents knew that he was not so licensed.

24 **PRAYER**

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

27 1. Denying the application for initial state gambling license submitted by
28 Respondent Star's Casino;

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2. Denying the application for initial state gambling license submitted by Respondent Star's Gaming, Inc.;

3. Denying the application for initial state gambling license submitted by Respondent Joseph A. Melech;

4. Denying the application for initial state gambling license submitted by Respondent Monica M. Melech;

5. Denying the application for initial state gambling license submitted by Respondent Emmanuel Macalino;

6. 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

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

Dated: November 20, 2018


STEPHANIE SHIMAZU, Director
Bureau of Gambling Control
California Department of Justice

1
2 (c) Approve or disapprove transactions, events, and processes as
provided in this chapter.

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

6 4. Business and Professions Code section 19826 provides, in part:

7 The department^[2] . . . shall have all of the following responsibilities:

8 (a) To receive and process applications for any license, permit, or
9 other approval The department shall investigate the qualifications of
10 applicants before any license, permit, or other approval is issued, and
11 investigate any request to the commission for any approval that may be
12 required under this chapter. The department may recommend the denial or
the limitation, conditioning, or restriction of any license, permit, or other
approval.

13 5. California Code of Regulations, title 4, section 12058 provides, in part:

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

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

21 **Cost Recovery Provisions**

22 6. Business and Professions Code section 19930 provides, in part:

23 * * *

24 (d) In any case in which the administrative law judge recommends that
25 the commission revoke, suspend, or deny a license, the administrative law
26 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.

27 _____
28 (h.)² “Department” refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.

1 (1) The costs assessed pursuant to this subdivision shall be fixed
2 by the administrative law judge and may not be increased by the
3 commission. When the commission does not adopt a proposed decision
4 and remands the case to the administrative law judge, the administrative
law judge may not increase the amount of any costs assessed in the
proposed decision.

5 (2) The department may enforce the order for payment in the
6 superior court in the county in which the administrative hearing was
7 held. The right of enforcement shall be in addition to any other rights
that the division may have as to any licensee to pay costs.

8 (3) In any judicial action for the recovery of costs, proof of the
9 commission's decision shall be conclusive proof of the validity of the
order of payment and the terms for payment.

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 Office of
15 the Attorney General.

16
17 **Specific Statutory and Regulatory Provisions**

18 7. Business and Professions Code, section 19801 provides, in part:

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

22 (i) All gambling operations, all persons having a significant
23 involvement in gambling operations, all establishments where gambling
24 is conducted, and all manufacturers, sellers, and distributors of gambling
25 equipment must be licensed and regulated to protect the public health,
safety, and general welfare of the residents of this state as an exercise of
the police powers of the state.

26 * * *

27 (k) In order to effectuate state policy as declared herein, it is
28 necessary that gambling establishments, activities, and equipment be

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licensed, that persons participating in those activities be licensed or registered, that certain transactions, events, and processes involving gambling establishments and owners of gambling establishments be subject to prior approval or permission, that unsuitable persons not be permitted to associate with gambling activities or gambling establishments Any license or permit issued, or other approval granted pursuant to this chapter, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder.

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

Every person who, . . . either solely or in conjunction with others, deals, operates, carries on, conducts, maintains, or exposes for play any 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, or 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, key employee license, or work permit In any criminal prosecution for violation of this section, the punishment shall be as provided in Section 337j of the Penal Code.

9. Business and Professions Code section 19852 provides, in part:

[A]n owner of a gambling enterprise that is not a natural person shall not be eligible for a state gambling license unless each of the following persons individually applies for an obtains a state gambling license:

* * *

(i) Every employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the commission, has the power to exercise significant influence over the gambling operation.

10. Business and Professions Code section 19853 provides, in part:

(a) The commission, by regulation or order, may require that the following persons register with commission, apply for a finding of suitability . . . or apply for a gambling license:

* * *

1 (6) Every person who, in the judgment of the commission,
2 has the power to exercise significant influence over the gambling
3 operation.

4 11. Business and Professions Code section 19855 provides, in part:

5 [E]very person who, by statute or regulation, is required to hold a state
6 license shall obtain the license prior to engaging in the activity or
7 occupying the position with respect to which the license is required.

8 12. Business and Professions Code section 19856 provides, in part:

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

15 13. Business and Professions Code section 19857 provides:

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

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

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

27 (c) A person that is in all other respects qualified to be licensed as
28 provided in this chapter.

14. 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:

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(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 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.

15. Business and Professions Code section 19866 provides:

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

16. Business and Professions Code section 19901 provides:

It is unlawful for any person to sell, purchase, lease, hypothecate, borrow or loan money, or create a voting trust agreement or any other agreement of any sort to, or with, any licensee in connection with any controlled gambling operation licensed under this chapter or with respect to any portion of the gambling operation, except in accordance with the regulations of the commission.

17. Business and Professions Code section 19920 provides:

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

18. Business and Professions Code section 19922 provides:

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