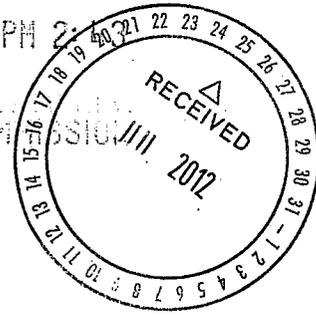


RECEIVED

2012 JUL 25 PM 2:40



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
State Bar No. 95146
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

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

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

PT GAMING, LLC,
PATRICK A. TIERNEY & JAMIE L.
TIERNEY FAMILY TRUST, sole member.

11400 W. Olympic Blvd. #200
Los Angeles, CA 90064

License No. TPPP-000004

Respondent.

BGC Case No. BGC-HQ2012-00004AL
OAH No. _____
STATEMENT OF ISSUES

Complainant alleges as follows:

PARTIES

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

1 (b) For the purposes of this section, "unqualified person"
2 means a person who is found to be unqualified pursuant to the
3 criteria set forth in Section 19857, and "disqualified person" means
4 a person who is found to be disqualified pursuant to the criteria set
5 forth in Section 19859.

6
7
8
9
10
11
12
13
14
15
16
17 7. 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 chapter², 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.

18
19
20
21
22
23
24
25
26
27
28 8. Business and Professions Code section 19984 provides in part:

(b) The commission shall establish reasonable criteria for, and
require the licensure and registration of, any person or entity that
provides proposition players services to gambling establishments
pursuant to this section, including owners, supervisors, and players.

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.

² Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,
(commencing with section 19800), also known as the Gambling Control Act.

1 * * *

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

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

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

7 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

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

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

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

14 * * *

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

22 12. Penal Code section 330 provides, in part:

23 Every person who deals, plays, or carries on, opens, or causes to be
24 opened, or who conducts, either as owner or employee, whether for hire or
25 not, . . . any banking . . . game played with cards, . . . for money, checks,
26 credit, or other representative of value, . . . is guilty of a misdemeanor . . .

27 13. Penal Code section 330.11 provides, in part:

28 "Banking game" or "banked game" does not include a controlled game if
the published rules of the game . . . preclude the house, another entity, a
player, or an observer from maintaining or operating as a bank during the
course of the game. . . . The house shall not occupy the player-dealer position.

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

14. Business and Professions Code section 19851 provides in part:

(a) The owner of a gambling enterprise shall apply for and obtain a state gambling license.

15. 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.

16. 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.

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

Notwithstanding any other provision of law, a licensed gambling enterprise may contract with a third party for the purpose of providing proposition player services at a gambling establishment, subject to the following conditions:

(a) ... [I]n no event shall a gambling enterprise or the house have any interest, whether direct or indirect, in funds wagered, lost, or won.

18. California Code of Regulations, title 4, section 12200 provides in part:

(b) As used in this chapter:

* * *

(10) "Funding source" means any person that provides financing, including but not limited to loans, advances, any other form of credit, chips, or any other representation or thing of value to an owner-registrant of owner-licensee, other than individual registrant under subsection (d) of Section 12201 or individual licensees.

* * *

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

(16) "Owner" includes all of the following:

* * *

(C) Any funding source.

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

(b) Each proposition player contract shall specifically require all of the following to be separately set forth at the beginning of the contract in the following order:

* * *

(11) That a registrant or licensee may not provide proposition player services in a gambling establishment for which the registrant holds a state gambling license, key employee license, or work permit.

* * *

(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.

20. California Code of Regulations, title 4, section 12200.9 provides in part:

(a)(1) Proposition player services shall not be provided except pursuant to a written proposition player contract

FIRST CAUSE FOR DENIAL

(Banked Games)

21. Respondent's application to renew its license is subject to denial pursuant to Business and Professions Code section 19857, subdivision (b), in that Respondent's prior activities and associations 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, as follows:

1 (a) From on or about August 26, 2010, through on or about August 26, 2011; Respondent
2 cooperated with, aided and assisted John Park, owner of Casino 580,³ in offering for play unlawful
3 banking games or banked games at Casino 580 in violation of Penal Code sections 330 and 330.11.
4 Such prohibited conduct occurred every time an employee of PTG occupied the player-dealer
5 position and accepted the bank at that gambling establishment, in that John Park as owner of both
6 Casino 580 and PTG was thereby directly or indirectly operating as the house bank or player-
7 dealer in each such hand that was played.

8 (b) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
9 cooperated with, aided and assisted John Park, owner of Cordova Restaurant and Casino,⁴ in
10 offering for play unlawful banking games or banked games at Cordova Restaurant and Casino in
11 violation of Penal Code sections 330 and 330.11. Such prohibited conduct occurred every time an
12 employee of PTG occupied the player-dealer position and accepted the bank at that gambling
13 establishment, in that John Park as owner of both Cordova Restaurant and Casino and PTG was
14 thereby directly or indirectly operating as the house bank or player-dealer in each such hand that
15 was played.

16 (c) From on or about September 20, 2010, through on or about August 1, 2011,
17 Respondent cooperated with, aided and assisted John Park, owner of Lotus Casino,⁵ in offering for
18 play unlawful banking games or banked games at Lotus Casino in violation of Penal Code sections
19 330 and 330.11. Such prohibited conduct occurred every time an employee of PTG occupied the
20 player-dealer position and accepted the bank at that gambling establishment, in that John Park as
21 owner of both Lotus Casino and PTG was thereby directly or indirectly operating as the house
22 bank or player-dealer in each such hand that was played.

23 ³ Casino 580, license number GEGE-001322, is owned by Casino 580, LLC, license
24 number GEOW-003324, of which John Park is a member, license number GEOW-003325.

25 ⁴ Cordova Restaurant and Casino, license number GEGE-001300, is owned by Cal-Pac
26 Rancho Cordova, LLC, license number GEOW-003228, of which John Park is the sole member,
license number GEOW-003222.

27 ⁵ Lotus Casino, license number GEGE-001321, is owned by The Silver F, Inc., license
28 number GEOW-003313, of which John Park is the sole shareholder, license number GEOW-
003312.

1 (d) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
2 cooperated with, aided and assisted John Park, owner of The 101 Casino,⁶ in offering for play
3 unlawful banking games or banked games at The 101 Casino in violation of Penal Code sections
4 330 and 330.11. Such prohibited conduct occurred every time an employee of PTG occupied the
5 player-dealer position and accepted the bank at that gambling establishment, in that John Park as
6 owner of both The 101 Casino and PTG was thereby directly or indirectly operating as the house
7 bank or player-dealer in each such hand that was played.

8 (e) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
9 cooperated with, aided and assisted John Park, owner of Wine Country Restaurant and Casino,⁷ in
10 offering for play unlawful banking games or banked games at Wine Country Restaurant and
11 Casino in violation of Penal Code sections 330 and 330.11. Such prohibited conduct occurred
12 every time an employee of PTG occupied the player-dealer position and accepted the bank at that
13 gambling establishment, in that John Park as owner of both Wine Country Restaurant and Casino
14 and PTG was thereby directly or indirectly operating as the house bank or player-dealer in each
15 such hand that was played.

16 SECOND CAUSE FOR DENIAL

17 (Impermissible Interest in Funds Wagered, Lost or Won)

18 22. Respondent's application to renew its license is subject to denial pursuant to Business
19 and Professions Code section 19857, subdivision (b), in that Respondent's prior activities, and
20 associations pose a threat to the public interest of this state, or to the effective regulation and
21 control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal
22 practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the
23 business and financial arrangements incidental thereto, as follows:

24 _____
25 ⁶ The 101 Casino, license number GEGE-000005, is owned by Cal-Pac Sonoma, LLC,
26 license number GEOW-003163, of which John Park is a member, license number GEOW-
003139.

27 ⁷ Wine Country Restaurant and Casino, license number GEGE-001299, is owned by Lodi
28 Cardroom, Inc., license number GEOW-003155, of which John Park is a shareholder, license
number GEOW-003312.

1 (a) From on or about August 26, 2010, through on or about August 26, 2011, Respondent
2 cooperated with, aided and assisted John Park, owner of Casino 580, in obtaining a prohibited
3 direct or indirect interest in the funds wagered, lost, or won at Casino 580 in violation of Business
4 and Professions Code section 19984, subdivision (a), and California Code of Regulations, title 4,
5 sections 12200.7, subdivision (e), and 12200.9, subdivision (a)(1). Such prohibited conduct
6 occurred every time an employee of PTG occupied the player-dealer position and accepted the
7 bank at that gambling establishment, in that John Park as owner of both Casino 580 and PTG
8 thereby had a direct or indirect interest in the funds wagered, lost, or won in each such hand that
9 was played.

10 (b) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
11 cooperated with, aided and assisted John Park, owner of Cordova Restaurant and Casino, in
12 obtaining a prohibited direct or indirect interest in the funds wagered, lost, or won at Cordova
13 Restaurant and Casino in violation of Business and Professions Code section 19984, subdivision
14 (a), and California Code of Regulations, title 4, sections 12200.7, subdivision (e), and 12200.9,
15 subdivision (a)(1). Such prohibited conduct occurred every time an employee of PTG occupied
16 the player-dealer position and accepted the bank at that gambling establishment, in that John Park
17 as owner of both Cordova Restaurant and Casino and PTG thereby had a direct or indirect interest
18 in the funds wagered, lost, or won in each such hand that was played.

19 (c) From on or about September 20, 2010, through on or about August 1, 2011,
20 Respondent cooperated with, aided and assisted John Park, owner of Lotus Casino, in obtaining a
21 prohibited direct or indirect interest in the funds wagered, lost, or won at Lotus Casino in violation
22 of Business and Professions Code section 19984, subdivision (a), and California Code of
23 Regulations, title 4, sections 12200.7, subdivision (e), and 12200.9, subdivision (a)(1). Such
24 prohibited conduct occurred every time an employee of PTG occupied the player-dealer position
25 and accepted the bank at that gambling establishment, in that John Park as owner of both Lotus
26 Casino and PTG thereby had a direct or indirect interest in the funds wagered, lost, or won in each
27 such hand that was played.

28

1 (d) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
2 cooperated with, aided and assisted John Park, owner of The 101 Casino, in obtaining a prohibited
3 direct or indirect interest in the funds wagered, lost, or won at Lotus Casino in violation of
4 Business and Professions Code section 19984, subdivision (a), and California Code of
5 Regulations, title 4, sections 12200.7, subdivision (e), and 12200.9, subdivision (a)(1). Such
6 prohibited conduct occurred every time an employee of PTG occupied the player-dealer position
7 and accepted the bank at that gambling establishment, in that John Park as owner of both The 101
8 Casino and PTG thereby had a direct or indirect interest in the funds wagered, lost, or won in each
9 such hand that was played.

10 (e) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
11 cooperated with, aided and assisted John Park, owner of Wine Country Restaurant and Casino, in
12 obtaining a prohibited direct or indirect interest in the funds wagered, lost, or won at Wine
13 Country Restaurant and Casino in violation of Business and Professions Code section 19984,
14 subdivision (a), and California Code of Regulations, title 4, sections 12200.7, subdivision (e), and
15 12200.9, subdivision (a)(1). Such prohibited conduct occurred every time an employee of PTG
16 occupied the player-dealer position and accepted the bank at that gambling establishment, in that
17 John Park as owner of both Wine Country Restaurant and Casino and PTG thereby had a direct or
18 indirect interest in the funds wagered, lost, or won in each such hand that was played.

19 **THIRD CAUSE FOR DENIAL**

20 **(Impermissibly Providing Proposition Player Services at Gambling Establishments for which**
21 **John Park Held a State Gambling License)**

22 23. Respondent's application to renew its license is subject to denial pursuant to Business
23 and Professions Code section 19857, subdivision (b), in that Respondent's prior activities, and
24 associations pose a threat to the public interest of this state, or to the effective regulation and
25 control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal
26 practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the
27 business and financial arrangements incidental thereto, as follows:
28

1 (a) From on or about August 26, 2010, through on or about August 26, 2011, Respondent
2 cooperated with, aided and assisted John Park, owner of Casino 580, in impermissibly providing
3 proposition player services at Casino 580, a gambling establishment for which John Park held a
4 state gambling license, in violation of California Code of Regulations, title 4, sections 12200.7,
5 subdivision (b)(11), and 12200.9, subdivision (a)(1). PTG, of which John Park was an owner,
6 provided proposition player services at Casino 580, which John Park also owned.

7 (b) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
8 cooperated with, aided and assisted John Park, owner of Cordova Restaurant and Casino, in
9 impermissibly providing proposition player services at Cordova Restaurant and Casino, a
10 gambling establishment for which John Park held a state gambling license, in violation of
11 California Code of Regulations, title 4, sections 12200.7, subdivision (b)(11), and 12200.9,
12 subdivision (a)(1). PTG, of which John Park was an owner, provided proposition player services
13 at Cordova Restaurant and Casino, which John Park also owned.

14 (c) From on or about September 20, 2010, through on or about August 1, 2011,
15 Respondent cooperated with, aided and assisted John Park, owner of Lotus Casino, in
16 impermissibly providing proposition player services at Lotus Casino, a gambling establishment for
17 which John Park held a state gambling license, in violation of California Code of Regulations, title
18 4, sections 12200.7, subdivision (b)(11), and 12200.9, subdivision (a)(1). PTG, of which John
19 Park was an owner, provided proposition player services at Lotus Casino, which John Park also
20 owned.

21 (d) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
22 cooperated with, aided and assisted John Park, owner of The 101 Casino, in impermissibly
23 providing proposition player services at The 101 Casino, a gambling establishment for which John
24 Park held a state gambling license, in violation of California Code of Regulations, title 4, sections
25 12200.7, subdivision (b)(11), and 12200.9, subdivision (a)(1). PTG, of which John Park was an
26 owner, provided proposition player services at The 101 Casino, which John Park also owned.

27 (e) From on or about February 1, 2010, through on or about August 1, 2011, Respondent
28 cooperated with, aided and assisted John Park, owner of Wine Country Restaurant and Casino, in

1 impermissibly providing proposition player services at Wine Restaurant and Casino, a gambling
2 establishment for which John Park held a state gambling license, in violation of California Code of
3 Regulations, title 4, sections 12200.7, subdivision (b)(11), and 12200.9, subdivision (a)(1). PTG,
4 of which John Park was an owner, provided proposition player services at Wine Country
5 Restaurant and Casino, which John Park also owned.

6 **FOURTH CAUSE FOR DENIAL**

7 **(Unlicensed and/or Unregistered Ownership of a Proposition Player Service - PTG)**

8 24. Respondent's application to renew its license is subject to denial pursuant to Business
9 and Professions Code sections 19920 and 19922, in that from on or about February 1, 2010,
10 through on or about June 6, 2011, Respondent cooperated with, aided, assisted and allowed John
11 Park to be an unlicensed and/or unregistered owner of PTG in violation of Business and
12 Professions Code sections 19851, subdivision (a), and 19984, subdivision (b), and California Code
13 of Regulations, title 4, section 12200, subdivisions (b)(10) and (b)(16)(C).

14 **PRAAYER**

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

- 17 1. Denying Respondent's application to renew its license, number TPPP-000004;
18 2. Awarding Complainant the costs of investigation and costs of bringing this Statement
19 of Issues before the Commission, pursuant to Business and Professions Code section 19930,
20 subdivisions (d) and (f), in a sum according to proof; and
21 3. Taking such other and further action as the Commission may deem appropriate.

22
23 Dated: July 23, 2012

24 
25 Martin Horan IV, Acting Chief
26 Bureau of Gambling Control
27 Department of Justice
28 State of California
Complainant