

CALIFORNIA GAMBLING CONTROL COMMISSION  
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2399 Gateway Oaks Drive  
Sacramento, CA 95833  
February 5, 2003, 1:30 p.m.

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## MINUTES OF February 5, 2003 COMMISSION MEETING

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### OPEN SESSION

Chairman Hensley called the meeting of February 5, 2003, to order at 1:30 p.m. with Commissioners Palmer, Smith and Sasaki present.

Staff Participating: Gary Qualset, Deputy Director Licensing and Compliance Division; Peter Melnicoe, Chief Counsel, Legal Division and Herb Bolz, Senior Legal Counsel and Regulations Coordinator.

The Pledge of Allegiance was recited.

Commissioner Palmer moved to approve the January 29, 2003, Commission Meeting Minutes. Commissioner Sasaki seconded the motion, which was unanimously adopted.

### DECISION ITEMS

1. Applications for Work Permit:
  - a. Empire Sportsmen Association:  
Pham, Diep
  - b. Lake Bowl Card Room:  
Dreher, Jeremy  
Srihavong, Joe
  - c. Pacific News Card Casino:  
Ha, Jeannie  
Manoukian, Haroutioun
  - d. Sonoma Joes:  
Chavez, Leandro  
Truong, Ba Kien (Jok-Erz Wild Casino)
  - e. Ven-A-Mexico:  
Rosas, Fernando

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for a work permit for Item 1b, Jeremy Dreher. Commissioner Smith moved to approve the application for a work permit for Item 1b, Jeremy Dreher. Commissioner Sasaki seconded the motion, which was unanimously adopted.

The Commission took no action on Item 1c, Jeannie Ha, which was tabled at the request of staff.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for a work permit for Item 1a, Diep Pham. Special Agent McPeters indicated that the Division recommends Diep Pham's application for a work permit be denied under Business and Professions Code section 19848A(a) and (b), 19850A(a)(5), and 19912A(2) and (4), (renumbered in 2003 to: 19857(a) and (b), 19859(a)(5) and 19914(2) and (4)). Deputy Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1a, Diep Pham, be denied as well, under Business and Professions Code section 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations. Commissioner Smith moved to deny to application for a work permit for Item 1a, Diep Pham. Commissioner Palmer seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for a work permit for Item 1b, Joe Srihavong. Special Agent McPeters indicated that the Division recommends Joe Srihavong's application for a work permit be denied under Business and Professions Code section 19848A(a) and (b) and 19850A(a)(2) and (4), (renumbered in 2003 to: 19857(a) and (b) and 19859(a)(2) and (4)). Deputy Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1b, Joe Srihavong, be denied as well, under Business and Professions Code section 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations. Chairman Hensley moved to deny the application for a work permit for Item 1b, Joe Srihavong. Commissioner Smith seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for a work permit for Item 1c, Haroutioun Manoukian. Special Agent McPeters indicated that the Division recommends Haroutioun Manoukian's application for a work permit be denied under Business and Professions Code section 19850A(a)(1) and (2), (renumbered in 2003 to: 19859(a)(1) and (2)). Deputy Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1c, Haroutioun Manoukian, be denied as well, under Business and Professions Code section 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations.

Commissioner Smith moved to deny the application for a work permit for Item 1c, Haroutioun Manoukian. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for work a permit for Item 1d, Leandro Chavez. Special Agent McPeters indicated that the Division recommends Leandro Chavez's application for a work permit be denied under Business and Professions Code section 19850A(a)(3), (renumbered in 2003 to: 19859(a)(3)). Deputy Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1d, Leandro Chavez, be denied as well, under Business and Professions Code section 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations. Deputy Director Qualset further indicated that Commission staff responded to Mr. Chavez's request for an evidentiary hearing and informed him that the hearing would be held before the Commission because the Commission is mandated to deny his application for a work permit under Business and Professions Code section 19859(c), 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations.

Leandro Chavez petitioned the Commission to reconsider the Division of Gambling Control's recommendation for denial of his application for a work permit.

Commissioner Smith moved to deny the application for a work permit for Item 1d, Leandro Chavez. Chairman Hensley seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for a work permit for Item 1d, Ba Kien Troung. Special Agent McPeters indicated that the Division recommends Ba Kien Troung's application for a work permit be denied under Business and Professions Code section 19848A(a) and (b) and 19850A(a)(2), (renumbered in 2003 to: 19857(a) and (b) and 19559(a)(2)). Deputy Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1d, Ba Kien Troung, be denied as well, under Business and Professions Code section 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations. Commissioner Sasaki moved to deny to application for a work permit for Item 1d, Ba Kien Troung. Commissioner Palmer seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for a work permit for Item 1e, Fernando Rosas. Special Agent McPeters indicated that the Division recommends Fernando Rosas' application for a work permit be denied under Business and Professions Code section 19850A(a)(1) and (2), (renumbered in 2003 to: 19859(a)(1)(2)). Deputy

Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1e, Fernando Rosas, be denied as well, under Business and Professions Code section 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations. Commissioner Sasaki moved to deny the application for a work permit for Item 1e, Fernando Rosas. Commissioner Smith seconded the motion, which was unanimously adopted.

2. Applications for Key Employee License:

- a. Garden City Casino:
  - Korpi, Anthony
  - Martin, Chrispin
  - Martin, Katherine
  - Pyle, Louis
- b. Ocean's Eleven Casino:
  - Kenny, Michael
- c. Players Club:
  - Kracht, William

The Commission took not action on Item 2a, Anthony Korpi, which was tabled at the request of staff.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the applications for a key employee license for Item 2a, Chrispin Martin, Katherine Martin and Louis Pyle. Commissioner Sasaki moved to approve the applications for a key employee license for Item 2a, Chrispin Martin, Katherine Martin and Louis Pyle. Commissioner Smith seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for a key employee license for Item 2b, Michael Kenny. Special Agent McPeters indicated that the Division recommends Michael Kenny's application for a key employee license be denied under Business and Professions Code section 19847A, 19848A and 19850A(a)(2) and (4), (renumbered in 2003 to: 19856, 19848A and 19850A(a)(2) and (4)). Deputy Director Qualset indicated that Commission staff recommend that the application for a key employee license for Item 2B, Michael Kenny, be denied as well, under the same Business and Professions Code sections as the Division recommended. Commissioner Palmer moved to deny the application for a key employee license for Item 2b, Michael Kenny. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for a key employee license for Item 2c, William Kracht. Commissioner Smith moved to approve the application for a key employee license for Item 2c, William Kracht. Commissioner Sasaki seconded the motion, which was unanimously adopted.

3. Application for State Gambling License:

- a. Poker Flats Casino: Terry Vargas, Sole Proprietor.

Deputy Director Qualset indicated that Item 3a, Poker Flats Casino, was previously issued a conditional temporary license to allow the gambling establishment to continue operating pending completion of the background investigation for a transfer of the license. Deputy Director Qualset further indicated that, based on findings of the completed investigation, both the Division of Gambling Control and Commission staff recommend approval of the application for a state gambling license for Item 3a, Poker Flats Casino. Commissioner Sasaki moved to approve the application for a state gambling license for Item 3a, Poker Flats Casino, from August 1, 2002, thru July 31, 2003. Commissioner Smith seconded the motion, which was unanimously adopted.

4. Applications for Renewal of State Gambling License:

- a. Ginnys Club: Virginia Mahoney, Sole Proprietor.  
b. Kelly's: Albert Cianfichi, Sole Proprietor.  
c. Ocean's Eleven Casino: Ocean's Eleven Inc. & North County Gaming Inc., Partnership.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommended approval of the application for renewal of a state gambling license for Item 4a, Ginnys Club. Deputy Director Qualset further noted that Commission staff would request that the Division review the local ordinance for compliance. Commissioner Sasaki moved to approve the application for renewal of a state gambling license for Item 4a, Ginnys Club. Commissioner Smith seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that the Division of Gambling Control recommends approval of the application for renewal of a state gambling license for Item 4b, Kelly's. Deputy Director Qualset further indicated that due to the pending receipt of additional information requested from the Division pertaining to the gambling establishment's Penal Code citations, Commission staff recommends a temporary three-month approval of the license renewal for Item 4b, Kelly's. Commissioner Smith moved to approve a three-month temporary renewal of the state gambling license for Item 4b, Kelly's, from March 1, 2003, through May 31, 2003. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommended approval of the application for renewal of a state gambling license for Item 4c, Ocean's Eleven Casino. Commissioner Sasaki moved to approve the application for renewal of a state gambling license for Item 4c, Ocean's Eleven Casino, from December 1, 2002, through November 30, 2003.

Commissioner Smith seconded the motion, which was unanimously adopted.

5. Revenue Sharing Trust Fund Report of Distribution to Non-Compact Tribes.

Deputy Director Qualset presented to the Commission for its consideration the Revenue Sharing Trust Fund (RSTF), report of distribution of funds to Non-Compact Tribes. Deputy Director Qualset indicated that staff recommends the Commission approve the current full quarter distribution of approximately \$8.34 million of all payments made by tribes and any interest income received by the Indian Gaming RSTF during the most recent quarter ending December 31, 2002, to the listed tribes that are determined to be eligible Non-Compact Tribes in accordance with the Commission's identified methodology for determining a Non-Compact Tribe. Commissioner Sasaki moved to adopt the staff recommendation. Commissioner Smith seconded the motion, which was unanimously adopted.

A copy of the staff report titled "Revenue Sharing Trust Fund Report Of Distribution Of Funds To Non-Compact Tribes For The Quarter Ended December 31, 2002," is incorporated into the minutes as Attachment A.

6. Final Adoption of Uniform Tribal Gaming Regulation CGCC-7 (Emergency/Evacuation Plans), to Become Effective Immediately, and Adoption of Finding of Exigent Circumstances, for Submission to all Compact Tribes and the Association of Tribal and State Gaming Regulators (Tribal-State Gaming Compact Section 8.4.2(d)).

Chief Counsel Peter Melnicoe, presented to the Commission for its consideration the final adoption of Uniform Tribal Gaming Regulation CGCC-7, and the Finding of Exigent Circumstances; for submission to all Compact Tribes and the Association of Tribal and State Gaming Regulators. The proposed amendment to CGCC-7 is incorporated into the minutes as Attachment B. A copy titled CGCC-7, Emergency Evacuation Plans, Finding of Exigent Circumstances for Immediate Effectiveness, as presented to the Commission, is incorporated into the minutes as Attachment C.

A discussion ensued among the Chairman and Commissioners pertaining to CGCC-7, and the necessity to expedite implementation of the regulation to establish a minimum statewide safety standard for ensuring the physical safety of patrons, employee's, and all other persons within a Tribe's gaming facility.

Commissioner Smith moved to adopt the regulation: Uniform Tribal Gaming Regulation CGCC-7, and the Finding of Exigent Circumstances for Immediate Effectiveness for submission to the Association of Tribal and State Gaming Regulators. Commissioner Sasaki seconded the motion.

Andrew Miranda, Pechanga Indian Gaming Commission, requested that the Commission continue the matter concerning the regulation to a future meeting,

indicating adoption of the regulation could undermine work done by the Association's Task Force to develop a working group process for regulation development.

Sheila Moreno, Tuolumne Me-Wuk Tribal Gaming Agency, commented that the Tuolumne Tribal Gaming Agency has policies, regulations and procedures in place for emergency/evacuation plans. Written comments, submitted for the record by Ms. Moreno are incorporated into these minutes as Attachment D.

Scott Gessford, Colusa Indian Gaming Commission, commented in opposition, indicating that he does not think anything exist that constitutes an emergency.

Anthony Miranda, Pechanga Indian Gaming Commission, commented that he believes that in the Commission's view there are no regulations in "Indian Country." Mr. Miranda indicated that the Pechanga Indian Gaming Commission has emergency plans in place, and requested that the Commission continue the matter to work with the tribes.

Leland Kinter, Rumsey Indian Rancheria of Wintun Indians, commented in support of CGCC-7, however, he indicated that the process of adopting regulations should be done through the Task Force and requested that the Commission continue the matter for two months to allow the Task Force an opportunity to address pertinent issues and proceed with the regulation process.

Katherine Clenney, Barona Indian Gaming Commission, commented that Barona is in opposition to the emergency evacuation regulation due to the fact that they believe that the Commission should work with the tribes on a government-to-government basis, with regards to the Uniform Tribal Gaming Regulation process. She also stated that she is aware that the Commission had initially started an exploratory committee for regulation development, and at that time we were all new to the regulatory development process, but now have come full-circle

Darlene Vega, Pala Band of Luiseno Mission Indians, commented in support of the development of regulations and requested that the Commission continue the matter for two months to allow the Task Force an opportunity to address pertinent issues and proceed with the regulation process.

Les Miller, Scotts Valley Pomo Indian Tribe, commented that the Commission should work with the tribes in a government-to-government basis, and requested that the Commission continue the matter for two months to allow the Task Force an opportunity to address pertinent issues and proceed with the regulation process.

Mark Levitan, Monteau Peebles, LLP, commented in support of the requests that the Commission continue the matter for two months to allow the Task Force an opportunity to address pertinent issues and proceed with the regulation process.

Jane Zerbi, Law Offices of Dickstien & Merin, commented that the request for a continuance was intended to provide an opportunity to address the regulation at the March 5, 2003, Association meeting, prior to any action by the Commission.

Andrew Miranda, Pechanga Indian Gaming Commission, commented that he interpreted certain statements made by Chief Counsel Melnicoe imply that the tribes are against regulations and he wanted to clarify that it is not true.

Commissioner Smith commented that development of CGCC-7 has been a long process, initially adopted by the Commission for submission to the Association at its July 17, 2002, meeting, and readopted twice by the Commission on September 25, 2002, and November 21, 2002, because of amendments that were proposed after the regulation had been considered by the Association on September 5, 2002, and November 7, 2002, the regulation was ultimately rejected by the Association on January 8, 2003.

After discussion among the Chairman and Commissioners, Chairman Hensley announced that the motion made by Commissioner Smith and seconded by Commissioner Sasaki, to adopt the exigent circumstances regulation, would be continued for further discussion and consideration at the March 19, 2003, Commission meeting, following the March 5, 2003, meeting of the Association of Tribal and State Gaming Regulators.

Anthony Miranda, Pechanga Indian Gaming Commission, thanked the Commission for its decision to have Item 6 continued.

7. Readoption of Uniform Tribal Gaming Regulation CGCC-7 (Emergency/Evacuation Plans) and Adoption of Written Response to Objections of the Association of Tribal and State Gaming Regulators to CGCC-7, for Submission to all Compact Tribes (Tribal-State Gaming Compact Section 8.4.1 (b) & (c)).

No action was taken by the Commission on Item 7, which was continued.

#### **CONSENT CALENDAR ITEMS**

1. Applications for Tribal-State Compact Key Employee Finding of Suitability:
  - a. Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation – Agua Caliente Casino:
    - Hobbs, Phillip
    - Howard, Troy
    - Lorton, Christopher
    - Navarrette, Celeste



- b. Chemehuevi Indian Tribe of the Chemehuevi Reservation – Havasu Landing Resort and Casino:  
Chang, Charles
  
- c. Jackson Rancheria of Me-Wuk Indians of California – Jackson Rancheria:  
Downing, Renee  
Hummel, Susan  
Springsteen, Mary  
Tschimperle, Karen
  
- d. Rumsey Indian Rancheria of Wintun Indians of California – Cache Creek Indian Bingo and Casino:  
Chau, Phillip  
Little, Leslie  
Longshore, Jonathan  
Pichlmaier, Johann  
Saetern, Charles
  
- e. Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation – Viejas Casino and Turf Club:  
Alayoubi, Isam  
Bisbines, Marc  
Gribble, Sr., Ronald  
Judd, Nichole  
Kaiser, Douglas  
Kneier, Brian  
Madeira, Mark  
Putnam, Bruce  
Shoemaker, Oliver

Deputy Director Qualset presented to the Commission for its consideration of the applications for a Tribal-State Compact Key Employee Finding of Suitability Items 1a, 1b, 1c, 1d, and 1e. Commissioner Smith moved to approve the applications for a Tribal-State Compact Key Employee Finding of Suitability for Items 1a, 1b, 1c, 1d, and 1e. Commissioner Sasaki seconded the motion, which was unanimously adopted.

**PUBLIC COMMENT**

No comments were presented to the Commission during this portion of the meeting.

**CLOSED SESSION**

Chairman Hensley announced that there would be no closed session after Commission Counsel stated there would be no discussion on items concerning litigation under Government Code Section 11126(c) and 11126 (e).

**ADJOURNMENT**

Commissioner Smith moved to adjourn the meeting. Commissioner Sasaki seconded the motion, which was unanimously adopted; the meeting was adjourned at 3:30p.m.