

California Gambling Control Commission
2399 GATEWAY OAKS DRIVE, SUITE 100
P.O. BOX 526013, SACRAMENTO, CA 95852-6013
(916) 263-0700 FAX (916) 263-0499
www.cgcc.ca.gov

2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833
Wednesday, April 28, 2004

MINUTES OF APRIL 28, 2004
COMMISSION MEETING

OPEN SESSION

Chairman Shelton called the meeting of April 28, 2004, to order at 1:33 a.m. with Commissioners Palmer, Sasaki and Smith present.

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

Upon motion of Commissioner Sasaki seconded by Commissioner Palmer and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission adopted the March 10, 2004, Commission meeting minutes.

Upon motion of Commissioner Palmer seconded by Commissioner Smith and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission adopted the March 24, 2004, Commission meeting minutes.

DECISION ITEMS

The Commission commenced with the decision items starting with Item 6, which was heard first at the request of staff.

6. Receipt of June 30, 2003 Year-End Financial Statement and the Management's Discussion and Analysis and the Independent Auditors' Report for the Indian Gaming Revenue Sharing Trust Fund

Deputy Director Qualset presented the June 30, 2003, Year-End Financial Statement and the Management's Discussion and Analysis and the Independent Auditor's Report for the Indian Gaming Revenue Sharing Trust fund, to the Commission for its

consideration of receiving the financial statement, the auditor's report and the management's discussion and analysis. The financial statement and notes to the financial statement were audited by the independent accounting firm of Gilbert Associates, Inc. and were presented on the accrual basis in accordance with generally accepted accounting principles. Deputy Director Qualset indicated that staff recommends that the Commission receive the Indian Gaming Revenue Sharing Trust Fund financial statement and the management's discussion and analysis for the year ended June 30, 2003, and the Independent Auditor's report thereon. A motion to adopt the staff recommendation was made by Chairman Shelton and seconded by Commissioner Sasaki.

Commissioner Sasaki inquired about there being no reportable weakness included in the report.

Peggy Vande Vooren, CPA, Principal with Gilbert and Associates, Inc. in response to Commissioner Sasaki's comment, indicated that the audit revealed no significant control issues and no need for a management letter.

There being no further discussion, Chairman Shelton called for a vote and the motion unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith all voting yes. A copy of the staff report titled "Receipt of the June 30, 2003 Year-End Financial Statement and the Management's Discussion and Analysis and the Independent Auditor's Report for the Indian Gaming Revenue Sharing Trust Fund" is incorporated into the minutes as Attachment A.

1. Applications for Work Permit:
 - a. Empire Sportsmen Association:
Hermiz, Hermiz L.
 - b. Napa Valley Casino:
Tan, Eyou See
 - c. Sonoma Joes:
 - i. Gonzales, Eric
 - ii. Ledesma, Janice
 - iii. Lauano, Tipera
 - iv. Moreno-Ramirez, Amy
 - v. Trainor, Kevin
 - vi. Valenza, Shannon
 - vii. Wall, Charles
 - viii. Wood, Rose
 - d. Sundowner Cardroom:
Saelee, Lai

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the applications for a work permit for Items 1a, Hermiz L. Hermiz, 1b, Eyou See Tan, 1c, Eric Gonzales, Janice Ledesma, Tipera Lauano, Amy Moreno-Ramirez, Shannon Valenza, Charles Wall and Rose Wood, and 1d, Lai Saelee. Upon motion of Commissioner **Sasaki**, seconded by Commissioner **Smith** and unanimously carried with Chairman Shelton and Commissioner Palmer, Sasaki and Smith voting yes, the Commission approved applications for a work permit for Items 1a, Hermiz L. Hermiz, 1b, Eyou See Tan, 1c, Eric Gonzales, Janice Ledesma, Tipera Lauano, Amy Moreno-Ramirez, Shannon Valenza, Charles Wall and Rose Wood, and 1d, Lai Saelee.

2. Applications for Key Employee License:

- a. Club Caribe:
Espana de Mendez, Josefina
- b. Crystal Park Casino:
Yu, I-Chung (Tony)
- c. Hollywood Park Casino:
Edwards, David
- d. Hustler Casino:
 - i. Chan, Jon Chi
 - ii. Swint Jr., William
- e. Normandie Casino:
Nishihira, Cris

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 Items 2a, Josefina Espana de Mendez, 2b, I-Chung (Tony) Yu, 2c, David Edwards, 2d, Jon Chi Chan and William Swint Jr., and 2e, Cris Nishihira. Upon motion of Commissioner Smith, seconded by Chairman Shelton and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes the Commission approved the applications for a key employee license for Items 2a, Josefina Espana de Mendez, 2b, I-Chung (Tony) Yu, 2c, David Edwards, 2d, Jon Chi Chan and William Swint Jr., and 2e, Cris Nishihira.

3. Request for Additional Authorized Tables:

- a. Empire Sportsmen Association, Incorporated: Empire Sportsmen Association, Incorporated – Corporation
- b. Golden West Casino: Kern County Associates, L.P. – Limited Partnership
- c. Hustler Casino: Larry Flynt – Sole Proprietor

d. Ocean's Eleven Casino: Ocean's Eleven Casino – Partnership

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the request from Empire Sportsmen Association, Inc. to increase the establishment's gambling tables by two, thereby increasing the total number of authorized tables from three to five. Upon motion of Chairman Shelton, seconded by Commissioner Sasaki and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes the Commission approved the request of Empire Sportsman Association, Incorporated to add two additional tables for a total of five tables authorized under the license effective May 1, 2004.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the request from Golden West Casino to increase the establishment's gambling tables by five, thereby increasing the total number of authorized tables from 20 to 25. Upon motion of Commissioner Palmer, seconded by Commissioner Sasaki and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes the Commission approved the request of Golden West Casino to add five additional tables for a total of 25 tables authorized under the license effective May 1, 2004.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the request from Hustler Casino to increase the establishment's gambling tables by eight, thereby increasing the total number of authorized tables from 55 to 63. Upon motion of Commissioner Smith, seconded by Chairman Shelton and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes the Commission approved the request of Hustler Casino to add eight additional tables for a total of 63 tables authorized under the license effective May 1, 2004, contingent upon receipt of fees for the additional tables.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the request from Ocean's Eleven Casino to increase the establishment's gambling tables by five, thereby increasing the total number of authorized tables from 25 to 30. Upon motion of Commissioner Sasaki, seconded by Chairman Shelton and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes the Commission approved the request of Ocean's Eleven Casino to add five additional tables for a total of 30 tables authorized under the license effective May 1, 2004, contingent upon receipt of fees for the additional tables.

4. Applications for State Gambling License:

- a. Commerce Club: Melissa Ann Walker – Shareholder

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for a state gambling license for Item 4a, Melissa Ann Walker, Shareholder of the Commerce Club Casino, through December 31, 2004. Upon motion of Commissioner Sasaki, seconded by Commissioner Smith and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission approved the application for a state gambling license for Item 4a, Melissa Ann Walker, Shareholder of the Commerce Club Casino, through December 31, 2004.

5. Applications for Renewal of State Gambling License:
 - a. Axtion Jaxson Card Room: Jack Morgan – Sole Proprietor
 - b. Gold Sombrero: Her Jack Xiong – Sole Proprietor
 - c. La Primavera Pool Hall and Café: Candelario Salas – Sole Proprietor
 - d. River Card Room: The River Cardroom, Inc.
 - e. Sundowner Cardroom: Augustine Mora, Jr. – Sole Proprietor

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for renewal of a state gambling license for Item 5a, Axtion Jaxson Card Room, through April 30, 2005. Upon motion of Chairman Shelton, seconded by Commissioner Smith and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission approved the application for renewal of a state gambling license for Item 5a, Axtion Jaxson Card Room, through April 30, 2005.

Deputy Director Qualset indicated that the Division of Gambling Control recommends approval of the application for renewal of a state gambling license for Item 5b, Gold Sombrero. Deputy Director Qualset further indicated that Commission staff also recommends approval of the application for license renewal contingent upon receipt of fees. Upon motion of Commissioner Palmer, seconded by Chairman Shelton and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Shelton voting yes, the Commission approved the application for renewal of a state gambling license through April 30, 2005, for Item 5b, Gold Sombrero, contingent upon receipt of fees.

Deputy Director Qualset indicated that staff recommends approval of a temporary state gambling license for the period of May 1, 2004 to June 30, 2004, for Item 5c, La Primavera Pool Hall and Café, contingent upon payment of the state gambling license and application fees. Deputy Director Qualset further indicated that staff was

recommending renewal of a temporary license because the Division of Gambling Control's review of the license renewal application was pending completion due to the applicant having filed the renewal application extremely late. Upon motion of Commissioner Smith, seconded by Commissioner Palmer and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes the Commission approved a temporary state gambling license for the period of May 1, 2004 to June 30, 2004, for Item 5c. La Primavera Pool Hall and Café, contingent upon payment of the state gambling license and application fees.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for renewal of a state gambling license for Item 5d, River Card Room Incorporated. Upon motion of Commissioner Sasaki, seconded by Chairman Shelton and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission approved the application for renewal of a state gambling license for Item 5d, River Card Room, Incorporated.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for renewal of a state gambling license for Item 5e, Sundowner Cardroom. Upon motion of Commissioner Palmer, seconded by Commissioner Sasaki and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission approved the application for renewal of a state gambling license for Item, 5e, Sundowner Cardroom.

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

Deputy Director Qualset presented the Revenue Sharing Trust Fund Report of distribution of Funds to Non-Compact Tribes for the Quarter Ended March 31, 2004, to the Commission for its consideration of the following recommendation:

It is recommended that:

- 1) *the Commission approve distribution of the current full quarterly amount of approximately \$8.28 million of all payments made by tribes and any interest income received by the Indian Gaming Revenue Sharing Trust Fund during the most recent quarter ended March 31, 2004, 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 as shown in Exhibit 1 attached to the report, and any interest accrued for previously approved distributions held in abeyance in the Indian Gaming Revenue Sharing Trust Fund but not immediately disbursed, and

- 2) *approval of distributions shall be made on a conditional basis subject to receipt of any required eligibility certification of the maximum number of gaming devices operated during the quarter by each tribe that is required to submit a completed certification form.*

Upon motion of Commissioner Palmer, seconded by Commissioner Sasaki and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes the Commission adopted the recommendation as presented by staff. A copy of the staff report titled "Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended March 31, 2004" is incorporated into the minutes as Attachment B.

8. Indian Gaming Special Distribution Fund and Indian Gaming Revenue Sharing Trust Fund Supplemental Report to Legislature per Assembly Bill 673, Chapter 210, Statutes of 2003 (Government Code section 12012.90).

Deputy Director Qualset presented to the Commission the Indian Gaming Special Distribution Fund and Indian Gaming Revenue Sharing Trust Fund Supplemental Report to the Legislature per Assembly Bill 673, Chapter 210, Statutes of 2003 (Government Code section 12012.90) for consideration of the following recommendation:

It is recommended that the Commission approve this supplemental report to the Legislature that describes the distribution of \$50,358.48 to the eligible Non-Compact tribes as shown in either Exhibit 1 or Exhibit 2. The exhibits are attached to this report. The supplemental distribution represents either an additional distribution for the quarter ended March 31, 2003 as described in the fourth paragraph of this report, or an additional shortfall distribution as described in the fifth paragraph of this report.

If Augustine is determined not to be eligible for the quarter ended March 31, 2003, the tribes listed in Exhibit 1 would receive moneys as

an additional distribution of Indian Gaming Revenue Sharing Trust Fund receipts for the quarter ended March 31, 2003. This distribution will be to all other eligible tribes resulting from redistribution in equal shares of the amount originally paid to and subsequently recouped from the Augustine Band of Cahuilla Mission Indians.

However, in the event Augustine is determined to be eligible for the quarter tribes listed in Exhibit 2 would receive moneys as an additional shortfall for the fiscal year 2002-03 determined per Assembly Bill 673.

Upon motion of Commissioner Sasaki, seconded by Commissioner Smith and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission approved the supplemental report to the Legislature and the distribution of \$50,358.48 to the eligible Non-Compact tribes. A copy of the report "Indian Gaming Special Distribution Fund and Indian Gaming Revenue Sharing Trust Fund Supplemental Report to Legislature per Assembly Bill 673, Chapter 210, Statutes of 2003 (Government Code section 12012.90)" is incorporated into the minutes as Attachment C.

9. Resolutions Concerning Delegation of Authority in Rulemaking (Government Code section 11343(f))

Senior Legal Counsel Bolz presented staff recommendations for the Commission's consideration of the Resolutions concerning Delegation of Authority in Rulemaking.

Mr. Bolz indicated that staff recommends the Commission revoke the August 25, 2003, delegations to Deputy Director Gary Qualset and Deputy Director Nancy Bither. Upon motion of Commissioner Palmer, seconded by Chairman Shelton and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission revoked the August 25, 2003, delegations to Deputy Director Gary Qualset and Deputy Director Nancy Bither. Copies of the revoked August 25, 2003, delegations to Deputy Director Gary Qualset and Deputy Director Nancy Bither are incorporated into the minutes as Attachment D and Attachment E respectively.

Mr. Bolz indicated that staff recommends that the Commission amend the "Resolution Concerning Delegation of Authority: Readoption of Emergency Regulations" dated January 16, 2003, to replace Richard DeCuir, Chief Deputy Director with Eugene Balonon, Executive Director, and revoke the Delegation of Authority to Richard DeCuir, Chief Deputy Director and Peter Melnicoe, Chief Counsel. Upon motion of Commissioner Palmer, seconded by Chairman Shelton and unanimously carried with

Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission approved the proposed amendment to the January 16, 2003, "Resolution Concerning Delegation of Authority: Readoption of Emergency Regulations," thereby delegating authority to Eugene Balonon, Executive Director, and revoking authority delegated to Richard DeCuir, Chief Deputy Director and Peter Melnicoe, Chief Counsel. Copies of the adopted, amended and revoked "Resolution(s) Concerning Delegation of Authority: Readoption of Emergency Regulations" are incorporated into the minutes as Attachment F, G and H respectively.

Mr. Bolz indicated that staff recommends the Commission adopt the proposed Resolution Concerning Delegation of Authority in Rulemaking to Eugene Balonon, Executive Director. Upon motion of Commissioner Sasaki, seconded by Commissioner Smith and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes, the Commission adopted the Resolution Concerning Delegation of Authority in Rulemaking to Eugene Balonon, Executive Director. A copy of the Resolution Concerning Delegation of Authority in Rulemaking to Eugene Balonon, Executive Director, is incorporated into the minutes as Attachment I.

10. 15-day Change to License Renewal Regulation (Title 4 CCR sec. 12250)

Senior Legal Counsel Herb Bolz presented staff's recommendation that the Commission: (1) adopt the proposed changes to the text of regulation concerning license renewals, and (2) authorize distribution to the public for a 15-day comment period on the proposed changes. Legal Counsel Bolz indicated that proposed changes to the regulation text was in response to comments received at the public hearing.

Commissioner Sasaki's motion to (1) adopt the proposed changes to the text of the regulation concerning license renewals, and (2) authorize distribution to the public for a 15-day comment period on the post hearing changes to the text of the originally-proposed regulations concerning License Renewals was seconded by Commissioner Smith.

Terri Sue Canale, Division of Gambling Control, commented on the proposed changes to the License Renewal Regulation and indicated the Division of Gambling Control supports the proposed changes.

There being no further public comments, Chairman Shelton called for a vote whereby the motion unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki and Smith voting yes. The Commission approved the proposed changes to

the regulation concerning License Renewal for distribution to the public for a 15-day comment period on the adopted changes. A copy of the regulation, including the proposed changes adopted by the Commission, is incorporated into the minutes as Attachment J.

PUBLIC COMMENT:

Gary Qualsdet, Deputy Director of the Commission's Licensing and Compliance Division provided an informed verbal status report on the processing of Third Party Providers of Proposition Player Services applications and badges. Deputy Director Qualset stated that 1,439 applications had been received, 1,113 badges and certificates had been issued, 10 applications were determined to be ineligible and 8 applications were withdrawn or abandoned.

John Sustaita, Gambling Consultant, commented on protection of person's rights under the Unruh Civil Rights Act as it applies to ejected patrons from gambling establishments.

David Tierney, NetworkM, commended the Licensing and Compliance Division staff for their efforts in processing the proposition player applications and badges, and requested Commission consideration of including provisions for temporary licensure in the permanent regulations for Third Party Proposition Players.

ADJOURNMENT

Upon motion to adjourn the meeting by Commissioner Smith, seconded by Chairman Shelton and unanimously carried with Chairman Shelton and Commissioners Palmer, Sasaki, and Smith voting yes, the meeting adjourned at 2:20 p.m.