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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

**IN THE MATTER OF THE STATEMENT OF  
ISSUES AGAINST:**  
  
**MARCOS CABRERA (EL RESBALON),**  
  
**RESPONDENT.**

Case No. CGCC # \_\_\_\_\_  
OAH No. \_\_\_\_\_

**STATEMENT OF ISSUES**

Complainant alleges as follows:

**PARTIES**

1. Teresa A. Ciau ("Complainant") brings this Statement of Issues solely in her official capacity as the Executive Director of the California Gambling Control Commission ("Commission").
2. On or about February 1, 2006, the Commission received a State Gambling License renewal application ("Application") from Marcos Cabrera ("Respondent") for the operation of the

1 gambling establishment known as "El Resbalon" located at 154 N. Valencia in Woodlake,  
2 California.

### 3 APPLICATION STATUS

4 3. On or about April 20, 2006, the Bureau of Gambling Control ("Bureau")<sup>1</sup> sent  
5 Respondent a letter stating that the Application was incomplete in that Respondent had failed to  
6 submit all required application fees, and certain required information needed before the  
7 Application could be processed.

8 4. Various communications between the Bureau and Respondent and/or Respondent's  
9 designated agents and/or family members ensued concerning information and payments required  
10 in order to permit the Bureau to process Respondent's application.

11 5. On May 18, 2006, the Commission approved the issuance of a 9-day license  
12 certificate to permit gambling to continue at El Resbalon provided that Respondent remitted a  
13 \$200 background fee by no later than June 7, 2006. The Commission subsequently granted  
14 further extensions of Respondent's gambling license in order to provide Respondent with  
15 additional time to provide requested information and documentation.

16 6. On June 16, 2006, the Bureau sent Respondent a letter captioned "**SECOND**  
17 **NOTICE**" which informed Respondent via his designated agent Raul Cabrera that Respondent's  
18 Application package remained incomplete and that an "Emergency and Evacuation Plan" must be  
19 submitted by no later than July 4, 2006, in order to permit the Bureau to proceed with its  
20 investigation. As of the date of this Statement of Issues, Respondent has failed to submit an  
21 Emergency and Evacuation Plan.

22 7. On June 22, 2006, the Bureau sent Respondent a letter via his designated agent Raul  
23 Cabrera informing Respondent that the sum deposited by Respondent to pay for background  
24 investigation was insufficient and that a payment of \$700 was required by no later than July 7,

25 \_\_\_\_\_  
26 <sup>1</sup> Effective August 24, 2007, the former Division of Gambling Control was denominated  
27 the Department of Justice, Bureau of Gambling Control. (See Stats. 2007, ch. 176, § 5.) In this  
28 document, the term "Bureau" is used to refer to both the present Bureau of Gambling Control and  
the former Division of Gambling Control. The Department of Justice, Bureau of Gambling  
Control is referred to in present statutes as "the department."

1 2006, in order to continue the processing of Respondent's Application. As of the date of this  
2 Statement of Issues, Respondent has failed to make the payment described in this paragraph.

3 8. On July 7, 2006, the Bureau sent Respondent a letter captioned "FINAL NOTICE"  
4 which informed Respondent via his designated agent Raul Cabrera that his Application package  
5 remained incomplete, noting that Respondent had not responded to the Bureau's letters of April  
6 20, 2006, and June 16, 2006, and further informing Respondent that if the required information  
7 was not received post-marked by July 18, 2006, the Bureau would conclude its investigation and  
8 recommend to the Commission that Respondent's Application be denied. The July 7, 2006, letter  
9 also informed Respondent that after July 18, 2006, the Bureau would accept no further  
10 information from Respondent concerning the Application. As of the date of this Statement of  
11 Issues, Respondent has failed to provide the information described in this paragraph.

12 9. On July 20, 2006, the Commission granted a further extension of Respondent's  
13 gambling license in order to allow further time for the Bureau's background investigation.

14 10. On August 17, 2006, the Commission granted a further extension of Respondent's  
15 gambling license in order to allow Bureau staff further time to prepare a report for the  
16 Commission's consideration.

17 11. On September 14, 2006, the Commission further extended Respondent's gambling  
18 license and rescheduled its consideration of Respondent's application for renewal for October 5,  
19 2006. Respondent's application remained incomplete.

20 12. On September 20, 2006, the Commission notified Respondent that staff had  
21 recommended that Respondent's application for license renewal be denied, and that the matter  
22 would be heard at the Commission's meeting on October 5, 2006.

23 13. On October 4, 2006, Respondent's wife telephoned the Commission and informed the  
24 Commission that neither Respondent, nor Respondent's designated agents could attend the  
25 October 5, 2006, meeting, and to request postponement of the Commission's consideration of  
26 Respondent's license renewal to the Commission's meeting in November.



- 1           21. Business and Professions Code section 19851, in relevant part, states:
- 2                 (a) The owner of a gambling enterprise shall apply for and obtain a  
3                 state gambling license.
- 4           22. Business and Professions Code section 19823, provides as follows:
- 5                 (a) The responsibilities of the commission include, without  
6                 limitation, all of the following:
- 7                     (1) Assuring that licenses, approvals, and permits are not issued to,  
8                     or held by, unqualified or disqualified persons, or by persons whose  
9                     operations are conducted in a manner that is inimical to the public health,  
10                    safety, or welfare.
- 11                    (2) Assuring that there is no material involvement, directly or  
12                    indirectly, with a licensed gambling operation, or the ownership or  
13                    management thereof, by unqualified or disqualified persons, or by  
14                    persons whose operations are conducted in a manner that is inimical to  
15                    the public health, safety, or welfare.
- 16                 (b) For the purposes of this section, "unqualified person" means a  
17                 person who is found to be unqualified pursuant to the criteria set forth in  
18                 Section 19857, and "disqualified person" means a person who is found to  
19                 be disqualified pursuant to the criteria set forth in Section 19859.
- 20           23. Business and Professions Code section 19824, provides as follows:
- 21                 The commission shall have all powers necessary and proper to enable  
22                 it fully and effectually to carry out the policies and purposes of this  
23                 chapter, including, without limitation, the power to do all of the  
24                 following:
- 25                     (a) Require any person to apply for a license, permit, registration,  
26                     or approval as specified in this chapter, or regulations adopted pursuant to  
27                     this chapter.
- 28                     (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.
- (c) Approve or disapprove transactions, events, and processes as  
                      provided in this chapter.
- (d) Take actions deemed to be reasonable to ensure that no  
                      ineligible, unqualified, disqualified, or unsuitable persons are associated  
                      with controlled gambling activities.

(h) Issue subpoenas to compel attendance of witnesses and production of documents and other material things at a meeting or hearing of the commission or its committees, including advisory committees.

24. Business and Professions Code section 19825 states:

The commission may require that any matter that the commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial, suspension, or revocation of a license, permit, or a finding of suitability, be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**STATUTORY PROVISIONS APPLICABLE TO RESPONDENT**

25. Business and Professions Code section 19856, in relevant part states:

(a) Any person who the commission determines is qualified to receive a state license . . . may be issued a license. The burden of proving his or her qualifications to receive any license is on the applicant.

26. Business and Professions Code section 19859, in relevant part states:

The commission shall deny a license to any applicant who is disqualified for any of the following reasons:

(a) Failure of the applicant to clearly establish eligibility and qualifications in accordance with this chapter.

(b) Failure of the applicant to provide information, documentation, and assurances required by this chapter or requested by the director, 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.

**CAUSE FOR DENIAL OF APPLICATION**

27. Respondent's application for renewal of his state gambling license for the operation of the gambling establishment known as El Resbalon in the city of Woodlake, is subject to mandatory denial pursuant to Business and Professions Code section 19859, subdivisions (a) and (b), on the basis of Respondent's failure to provide requested information, documentation, and payment to the Bureau, despite the Bureau's repeated requests that he do so, as alleged in

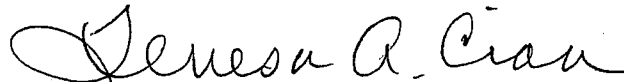
1 paragraphs 6, 7, and 8, above. Respondent has failed to clearly establish his eligibility and  
2 qualifications in accordance with the Gambling Control Act.

3 PRAYER

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

- 6 1. Denying Respondent's application for renewal of gambling license pursuant to  
7 Business and Professions Code section 19859, subdivisions (a) and (b).  
8 2. Taking such and further action as is deemed necessary and proper.

9 Dated: ~~October~~ \_\_, 2008 *to*  
10 *November 14*

11 

12 \_\_\_\_\_  
13 TERESSA A. CIAU  
14 Executive Director  
15 California Gambling Control Commission

16 Complainant

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