

1 KAMALA D. HARRIS
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 RANDALL A. PINAL
Supervising Deputy Attorney General
4 RONALD L. DIEDRICH
Deputy Attorney General, SBN 95146
5 JENNIFER T. HENDERSON
Deputy Attorney General, SBN 206231
6 1300 I Street, Suite 125
P.O. Box 944255
7 Sacramento, CA 94244-2550
Telephone: (916) 322-1043
8 Fax: (916) 327-2319
E-mail: Ronald.Diedrich@doj.ca.gov
9 Attorneys for Complainant

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CALIFORNIA GAMBLING
CONTROL COMMISSION

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11 **BEFORE THE**

12 **CALIFORNIA GAMBLING CONTROL COMMISSION**

13 **STATE OF CALIFORNIA**
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16 **In the Matter of the Statement of Reasons
for Denial of License Renewals Regarding:**

17
18 **PALOMAR CARD CLUB GENERAL
PARTNERSHIP, DONALD STAATS AND
19 SUSAN STAATS, general partners, dba
20 PALOMAR CARD CLUB**

21 **2724 El Cajon Boulevard
San Diego, CA 92104**

22 **License Nos. GEGE-002377 (Palomar)
23 GEOW-002374 (D. Staats)
24 GEOW-002375 (S. Staats)**

25 **Respondents.**
26
27
28

**BGC Case No. BGC SD-2010-00017
CGCC Case No: CGCC-2012-0314-2
OAH No.**

**STATEMENT OF REASONS FOR
DENIAL OF LICENSE RENEWALS**

**Hearing Date: October 15 - 23, 2012
Time: 9:30 a.m.**

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1 Complainant alleges as follows:

2 **PARTIES**

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

6 2. The Palomar Card Club (Palomar) is a licensed gambling establishment, license
7 number GEGE-001008, located in San Diego, California. The Palomar Card Club is owned by the
8 Palomar Card Club General Partnership, license number GEOW-002377. Donald Staats, license
9 number GEOW-002374, and Susan Staats, license number GEOW-002375, are the sole and
10 general partners of the Palomar Card Club General Partnership, with each owning fifty percent
11 (50%) of the general partnership. Hereinafter, the Palomar Card Club General Partnership,
12 Donald Staats and Susan Staats are referred to collectively as Respondents.

13 3. On or about July 29, 2011, the California Gambling Control Commission
14 (Commission) received an Application for a State Gambling License (application) submitted by
15 Respondents to renew their state gambling licenses.

16 4. Complainant recommended to the Commission that Respondents' applications to
17 renew their state gambling licenses be denied. Rather than adopt the recommendation, at its
18 February 23, 2012 meeting, the Commission referred the question of Respondents' suitability for
19 licensure to an evidentiary hearing.

20 5. On or about March 14, 2012, pursuant to California Code of Regulations, title 4,
21 section 12050, subdivision (b), the Executive Director of the Commission set the matter for a
22 hearing to be conducted pursuant to the provisions of Business and Professions Code sections
23 19870 and 19871.

24 6. Respondents' licenses, numbers GEOW-002377, GEOW-002374, and GEOW-
25 002375, expired on November 30, 2011.

26 7. On April 19, 2012, the Commission ordered this matter consolidated for hearing with
27 the hearings on the pending applications of Naseem Salem, key employee and manager of
28

1 Palomar, and for University Heights, Palomar's landlord. The consolidated hearing is presently
2 calendared to begin on October 15, 2012.

3 **JURISDICTION**

4 8. Business and Professions Code section 19811, subdivision (b), provides:

5 Jurisdiction, including jurisdiction over operation and
6 concentration, and supervision over gambling establishments in this
7 state and over all persons or things having to do with the operation of
8 gambling establishments is vested in the commission.

9 9. Business and Professions Code section 19823 provides:

10 (a) The responsibilities of the commission include, without
11 limitation, all of the following:

12 (1) Assuring that licenses, approvals, and permits are
13 not issued to, or held by, unqualified or disqualified
14 persons, or by persons whose operations are conducted in a
15 manner that is inimical to the public health, safety, or
16 welfare.

17 (2) Assuring that there is no material involvement,
18 directly or indirectly, with a licensed gambling operation,
19 or the ownership or management thereof, by unqualified or
20 disqualified persons, or by persons whose operations are
21 conducted in a manner that is inimical to the public health,
22 safety, or welfare.

23 (b) For the purposes of this section, "unqualified person"
24 means a person who is found to be unqualified pursuant to the
25 criteria set forth in Section 19857, and "disqualified person" means
26 a person who is found to be disqualified pursuant to the criteria set
27 forth in Section 19859.

28 10. Business and Professions Code section 19876 provides in part:

(a) Subject to the power of the commission to deny, revoke,
suspend, condition, or limit any license, as provided in this chapter¹, a
license shall be renewed biennially.

¹ "Chapter" refers to the "Gambling Control Act." (Bus. & Prof. Code, § 19800 et seq.)

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11. 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 chapter, 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. The commission may condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling enterprise whether or not the commission takes action against the license of the gambling enterprise.

* * *

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

12. Business and Professions Code section 19870 provides:

(a) The commission, after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may either deny the application or grant a license to an applicant who it determines to be qualified to hold the license.

(b) When the commission grants an application for a license or approval, the commission may limit or place restrictions thereon as it may deem necessary in the public interest, consistent with the policies described in this chapter.

(c) When an application is denied, the commission shall prepare and file a detailed statement of its reasons for the denial.

(d) All proceedings at a meeting of the commission relating to a license application shall be recorded stenographically or by audio or video recording.

1 (e) A decision of the commission denying a license or approval,
2 or imposing any condition or restriction on the grant of a license or
3 approval may be reviewed by petition pursuant to Section 1085 of the
4 Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure
5 shall not apply to any judicial proceeding described in the foregoing
6 sentence, and the court may grant the petition only if the court finds that
7 the action of the commission was arbitrary and capricious, or that the
8 action exceeded the commission's jurisdiction.

9
10 13. Business and Professions Code section 19871 provides:

11 (a) The commission meeting described in Section 19870 shall be
12 conducted in accordance with regulations of the commission and as
13 follows:

14 (1) Oral evidence shall be taken only upon oath or affirmation.

15 (2) Each party shall have all of the following rights:

16 (A) To call and examine witnesses.

17 (B) To introduce exhibits relevant to the issues of the case.

18 (C) To cross-examine opposing witnesses on any matters
19 relevant to the issues, even though the matter was not covered
20 on direct examination.

21 (D) To impeach any witness, regardless of which party
22 first called the witness to testify.

23 (E) To offer rebuttal evidence.

24 (3) If the applicant does not testify in his or her own behalf, he
25 or she may be called and examined as if under cross-examination.

26 (4) The meeting need not be conducted according to technical
27 rules relating to evidence and witnesses. Any relevant evidence
28 may be considered, and is sufficient in itself to support a finding, if
it is the sort of evidence on which responsible persons are
accustomed to rely in the conduct of serious affairs, regardless of
the existence of any common law or statutory rule that might make
improper the admission of that evidence over objection in a civil
action.

(b) Nothing in this section confers upon an applicant a right to
discovery of the department's² investigative reports or to require

² "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & (continued...))

1 disclosure of any document or information the disclosure of which is
2 otherwise prohibited by any other provision of this chapter.

3 **COST RECOVERY**

4 14. Business and Professions Code section 19930 provides in part:

5 (d) In any case in which the administrative law judge recommends
6 that the commission revoke, suspend, or deny a license, the administrative
7 law judge may, upon presentation of suitable proof, order the licensee or
8 applicant for a license to pay the department the reasonable costs of the
9 investigation and prosecution of the case.

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
15 Office of the Attorney General.

16 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

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

20 16. Business and Professions Code section 19857 provides in part:

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

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

25 (b) A person whose prior activities, criminal record, if any,
26 reputation, habits, and associations do not pose a threat to the public
27 interest of this state, or to the effective regulation and control of
28 controlled gambling, or create or enhance the dangers of unsuitable,
unfair, or illegal practices, methods, and activities in the conduct of

(...continued)
Prof. Code, § 19805, subd. (h.)

1 controlled gambling or in the carrying on of the business and financial
2 arrangements incidental thereto.

3 17. Business and Professions Code section 19920 provides:

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

13 18. Business and Professions Code section 19922 provides:

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

17 19. Business and Professions Code section 19924 provides:

18 Each owner licensee shall maintain security controls over the
19 gambling premises and all operations therein related to gambling, and
20 those security controls are subject to the approval of the commission.

21 20. California Code of Regulations, title 4, section 12556, in relevant part, provides that a
22 factor in aggravation is:

23 The extent to which an owner licensee . . . of a gambling
24 establishment, . . . or owner . . . of a gambling business exercised due
25 diligence in management or supervision.

26 **FIRST CAUSE FOR DENIAL OF LICENSE RENEWAL**

27 **(Unsuitable for Licensure – Unsuitable Methods of Operation and Failure to Maintain
28 Security Controls: Failure to Provide Adequate Oversight of Key Employee and Manager)**

29 21. Respondents' license application to renew their gambling licenses is subject to denial
30 pursuant to Business and Professions Code section 19857, subdivision (b), in that Respondents, as
31 the owners of Palomar, failed to provide oversight of the gambling establishments operations,
32 which allowed Naseem Salem, the manager and key employee of Palomar, to operate that

1 gambling establishment with unfettered discretion. This resulted in Naseem Salem being allowed
2 to use unsuitable methods of operation and failing to maintain security controls in violation of
3 Business and Professions Code sections 19920 and 19924, in that:

4 a. On or about January 11, 2010, on behalf of, and at the direction of, Naseem Salem,
5 Palomar's cage cashier Amen Abraham paid \$10,000 in cash to Cynthia Morrello, owner of
6 Morrello Concrete Construction, Inc. (Morrello Concrete), at the gambling establishment's cage
7 for construction work performed for Naseem Salem's benefit. The work performed by Morrello
8 Concrete was not in any way related to the operation of Palomar. The source of the \$10,000 cash
9 payment was Naseem Salem's "marker"³ at Palomar.

10 b. Between on or about December 16, 2009, and on or about February 8, 2010, on behalf
11 of, and at the direction of, Naseem Salem, Palomar's cage manager Sabrina Konja made three (3)
12 separate \$10,000 cash payments to Cynthia Morrello in the gambling establishment for
13 construction work performed by Morrello Concrete for Naseem Salem's benefit. The work
14 performed by Morrello Concrete was not in any way related to the operation of Palomar. On or
15 about December 16, 2009, on behalf of, and at the direction of, Naseem Salem, Sabrina Konja
16 made one (1) of those \$10,000 cash payments to Cynthia Morello from cash withdrawn from
17 Naseem Salem's Palomar player's bank.⁴

18 c. Between on or about January 29, 2010, and on or about March 19, 2010, on three (3)
19 separate occasions, Naseem Salem paid Joseph Morello of Morello Concrete in cash payments in
20 the gambling establishment for construction work performed for Naseem Salem's benefit. The
21 work performed by Morrello Concrete was not in any way related to the operation of Palomar.

22 22. Respondents, through their neglect, made it possible for Naseem Salem to conduct
23 business transactions for his non-gaming businesses in the gambling establishment; to use his

24 ³ A "marker" is commonly understood to be a written promise to repay money loaned by
25 the gambling establishment to a patron for the purpose of gambling. Respondent, as the key
26 employee and manager of Palomar, authorized his own loan (marker) of gambling establishment
monies to himself for non-gambling purposes.

27 ⁴ "'Player's bank' means the total amount of moneys a patron of the gambling
28 establishment has on deposit with the gambling establishment." (Cal. Code Regs., tit. 4, § 12400,
subd. (b)(11).):

1 position as manager and key employee to require Palomar employees to aide in conducting these
2 transactions; and/or to use his position as manager and key employee to use Palomar's financial
3 resources to conduct these transactions. Allowing such conduct to occur constitutes an unsuitable
4 method of operation and a failure to maintain security controls in violation of Business and
5 Professions Code sections 19920 and 19924.

6 **SECOND CAUSE FOR DENIAL OF LICENSE RENEWAL**

7 **(Unsuitable for Licensure –Unsuitable Methods and Failure to Maintain Security Controls:
8 Intertwining of Cardroom and Third-Party Proposition Provider Operations)**

9 23. Respondents' license application to renew their gambling licenses is subject to denial
10 pursuant to Business and Professions Code section 19857, subdivision (b), in that between on or
11 about March 1, 2006, and on or about November 21, 2011, Respondents, as the owners of
12 Palomar, failed to provide oversight of the gambling establishment's operations, which allowed
13 Naseem Salem, the manager and key employee of Palomar, to improperly intertwine the function,
14 operation and control of Palomar and the former third-party proposition player provider for
15 Palomar, ATS Gaming, Inc. (ATS), in violation of Business and Professions Code sections 19920
16 and 19924, in that:

17 a. The contract between ATS and Palomar submitted by Naseem Salem on behalf of
18 Respondents to the Bureau did not reveal that ATS shared office space with Palomar within the
19 gambling establishment.

20 b. On at least three (3) occasions, at the direction of Naseem Salem, ATS employees
21 made large cash withdrawals from Palomar's bank account on behalf of the gambling
22 establishment.

23 c. On at least one (1) occasion, ATS employees counted the table fee collections on
24 behalf of Palomar.

25 d. Naseem Salem allowed ATS to maintain and move large sums of cash out of the ATS
26 safe that was improperly located in Palomar's cage.

27 24. As Palomar's owners, Respondents failed to provide proper oversight to prevent the
28 improper intertwining of the functions, operation and control of ATS and Palomar, which

1 constitutes an unsuitable method of operation and a failure to maintain security controls in
2 violation of Business and Professions Code sections 19920 and 19924.

3 **PRAYER**

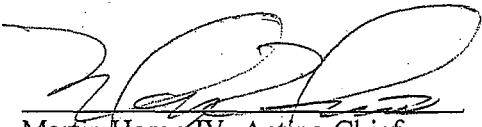
4 WHEREFORE, Complainant requests that following the hearing to be held on the matters
5 herein alleged, the Commission issue a decision:

6 1. Denying the Application for a State Gambling License submitted by Donald Staats,
7 Susan Staats, and the Palomar Card Club General Partnership to renew their State Gambling
8 Licenses;

9 2. Awarding Complainant the costs of investigation and costs of bringing this Statement
10 of Issues before the Commission, pursuant to Business and Professions Code section 19930,
11 subdivisions (d) and (f), in a sum according to proof; and

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

13
14 Dated: August 10, 2012


15 Martin Horan IV, Acting Chief
16 Bureau of Gambling Control
17 California Department of Justice
18 Complainant
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