

1 KAMALA D. HARRIS
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 RONALD L. DIEDRICH
Deputy Attorney General
4 WILLIAM P. TORNGREN
Deputy Attorney General
5 State Bar No. 58493
1300 I Street, Suite 125
6 P.O. Box 944255
Sacramento, CA 94244-2550
7 Telephone: (916) 323-3033
Fax: (916) 327-2319
8 E-mail: William.Torngren@doj.ca.gov
Attorneys for the Complainant

2015 OCT -8 PM 2:07
CALIFORNIA GAMBLING
CONTROL COMMISSION

10 **BEFORE THE**
11 **CALIFORNIA GAMBLING CONTROL COMMISSION**
12 **STATE OF CALIFORNIA**

15 **In the Matter of the Accusation Against:**
16 **PALOMAR CARD CLUB, a general**
17 **partnership, doing business as Palomar**
Card Club (GEGE-001008);
18 **DONALD STAATS (GEOW-002374);**
19 **SUSAN STAATS (GEOW-002375);**
20 **2724 El Cajon Boulevard**
21 **San Diego, CA 92104**

OAH No.
BGC Case No. HQ 2015-0000_AC

ACCUSATION

Respondents.

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Wayne J. Quint, Jr. (Complainant) brings this Accusation solely in his official
4 capacity as the Chief of the California Department of Justice, Bureau of Gambling Control
5 (Bureau).

6 2. Respondent Palomar Card Club (Palomar) is a general partnership, doing
7 business as the Palomar Card Club. Palomar is a licensed gambling enterprise, California
8 State Gambling License Number GEGE-001008. Palomar operates an 11-table card room at
9 2724 El Cajon Boulevard, San Diego, California.

10 3. Respondents Donald Staats (Mr. Staats), license number GEOW-002374, and
11 Susan Staats (Mrs. Staats), license number GEOW-002375, are Palomar's only partners and are
12 endorsed on its license.

13 4. Palomar, Mr. Staats, and Mrs. Staats are referred to collectively as
14 "Respondents."

15 5. The California Gambling Control Commission (Commission) issued the above-
16 described licenses to Respondents. Each license will expire on November 30, 2015. An
17 application for renewal is pending as to each license.

18 **SUMMARY OF THE CASE**

19 6. This proceeding seeks to revoke Respondents' licenses, and impose appropriate
20 fines as allowed by law. Respondents are not suitable for continued licensure under the
21 Gambling Control Act (Act). As alleged in this Accusation, Respondents concealed material
22 information from the Commission and the Bureau, and failed to comply with a Commission
23 order. Additionally, as alleged in this Accusation, Mr. and Mrs. Staats turned control and
24 management of Palomar over to an unlicensed person. Pursuant to the Act and as a
25 consequence of their acts and omissions, Respondents are unqualified for, disqualified from,
26 and unsuitable for continued licensure. Respondents' continued licensure is inimical to the
27 public health, safety, and welfare and a danger to the effective regulation of controlled
28 gambling.

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

JURISDICTION AND COST RECOVERY

7. The Commission has jurisdiction over the operation and concentration of gambling establishments and all persons and things having to do with the operation of gambling establishments. (Bus. & Prof. Code, § 19811, subd. (b).)¹ The Act tasks the Bureau with, among other responsibilities, investigating suspected violations of the Act and initiating disciplinary actions. (Bus. & Prof. Code, §§ 19826, subds. (c) & (e) & 19930, subd. (b).) Upon the Bureau filing an accusation, the Commission proceeds under Government Code section 11500 et seq. (Bus. & Prof. Code, § 19930, subd. (b); see Cal. Code Regs., tit. 4, § 12554, subd. (a).) The Commission's disciplinary powers include, among other things, revocation and imposition of a fine or monetary penalty. (Cal. Code Regs., tit. 4, § 12554, subd. (d).)

8. In a matter involving revocation or suspension, the Bureau may recover its costs of investigation and prosecuting the proceeding. (Bus. & Prof. Code, § 19930, subd. (d).)

REGULATION, SUITABILITY, AND THE DUTY OF DISCLOSURE

9. Operating a card room in California is a revocable privilege. (Bus. & Prof. Code, § 19801, subd. (k).) The Act provides for comprehensive regulation to prevent that privilege from being abused. Comprehensive regulation maintains the public trust that permissible gambling will not endanger the public health, safety, and welfare. That comprehensive regulation covers all persons, practices, and associations related to the operation of lawful gambling establishments. (Bus. & Prof. Code, § 19801, subd. (h).)

10. Under the Act, the Commission's responsibilities include assuring that no unqualified or disqualified person, or any person whose operations are conducted in a manner that is inimical to the public health, safety, and welfare, has any direct or indirect material involvement with a licensed gambling operation. (Bus. & Prof. Code, § 19823, subd. (a)(2).)

11. Determining whether a person is suitable, or whether a person has material involvement in a licensed gambling operation, begins with providing truthful information to the Bureau. Accordingly, the Act directs that every applicant for licensing or any approval required

¹ The statutes and regulations applicable to this Accusation are quoted in pertinent part in Appendix A.

1 by the Act make full and true disclosure of all information necessary to carry out the state's
2 policies relating to licensing and the control of gambling. (Bus. & Prof. Code, § 19866.)

3 12. The Act mandatorily disqualifies from licensure any person who fails "to reveal
4 any fact material to qualification" or supplies untrue or misleading information. (Bus. & Prof.
5 Code, § 19859, subd. (b).) Additionally, providing untrue or misleading information or failing
6 to provide information and documentation requires revocation of an existing license. (Cal.
7 Code Regs., tit. 4, § 12568, subd. (c)(4) [mandatory revocation of a state gambling license].)

8 13. The Act makes unqualified for licensure any person who is not of good
9 character, honesty, and integrity. (Bus. & Prof. Code, § 19857, subd. (a).) The Act also makes
10 unqualified for licensure any person whose prior activities and associations pose a threat to
11 effective regulation and control of controlled gambling, or create or enhance the dangers of
12 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and
13 financial arrangements incidental to the conduct of controlled gambling. (Bus. & Prof. Code, §
14 19857, subd. (b).) The license of any person who becomes unqualified for licensure must be
15 revoked. (Cal. Code Regs., tit. 4, § 12568, subd. (c)(3) [mandatory revocation of a state
16 gambling license].)

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Unqualified for Continued Licensure)**

19 14. Respondents' gambling licenses are subject to discipline, pursuant to Business
20 and Professions Code sections 19823 and 19857, subdivisions (a) and (b), and California Code
21 of Regulations, title 4, section 12568, subdivision (c)(3). Respondents' continued licensure is
22 inimical to public health, safety, and welfare. Respondents are not persons of good character,
23 honesty, and integrity. Their prior activities pose a threat to the effective regulation and control
24 of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal
25 practices, methods, and activities in carrying on the business and financial arrangements
26 incidental to the conduct of controlled gambling. Respondents' conduct in their dealings with
27 the Commission and the Bureau demonstrate that they are unqualified for licensure. That
28 conduct includes, but is not limited to, the following acts and omissions:

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

- a. On August 28, 2013, the Commission conducted a hearing regarding Respondents' continued suitability for licensure. Prior to the hearing, Mr. Staats and Mrs. Staats each executed a power of attorney giving their daughter (Daughter) immediate authority to exercise powers, rights, or authority as a partner or manager of a partnership. The power of attorney covered, among other things, Palomar. The Daughter was not licensed under the Act, nor had she applied for a license. Respondents failed to disclose the existence and substance of the power of attorney to the Commission and Bureau until 2015.
- b. Mr. Staats and Mrs. Staats lack the mental capacity to oversee Palomar's operations, to exercise control over the card room, and to fulfill their duties and responsibilities under the Act. Without notifying the Commission and the Bureau, they ceded oversight and control to the Daughter, who was unlicensed.
- c. On September 5, 2013, the Commission issued its Decision and Order (Order) in Case No. CGCC-2012-0314-2, following a hearing regarding Respondents' licensure. In the Order, the Commission imposed a condition on Respondents' continued licensure that any new card room lease, or renewal or modification of a lease, must have the Commission's approval prior to the effective date of the lease. Respondents failed to comply with that condition when they renegotiated the lease for Palomar Card Club.
- d. In its Order, the Commission also imposed a condition on Respondents' continued licensure requiring notification, and interim licensing, with respect to any future incapacity of Mr. Staats and Mrs. Staats. Respondents failed to timely comply with that condition.

SECOND CAUSE FOR DISCIPLINE

(Failing To Reveal Material Information to the Bureau)

15. Respondents' gambling licenses are subject to discipline, pursuant to Business and Professions Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b), and California Code of Regulations, title 4, section 12568, subdivisions (c)(3) and

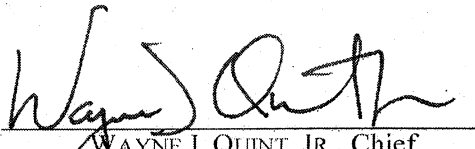
1 (4). Respondents' continued licensure is inimical to public health, safety, and welfare.
2 Respondents are not persons of good character, honesty, and integrity. Their prior activities
3 pose a threat to the effective regulation and control of controlled gambling, and create or
4 enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
5 carrying on the business and financial arrangements incidental to the conduct of controlled
6 gambling. Respondents breached their duty of full and true disclosure to the Commission and
7 the Bureau. Respondents failed to reveal to, and concealed from, the Bureau material
8 information regarding fulfilling their statutory duties, complying with the Commission's Order,
9 and allowing an unlicensed person to oversee card room operations, including, but not limited
10 to, the following:

- 11 a. On August 28, 2013, the Commission conducted a hearing regarding
12 Respondents' continued suitability for licensure. Prior to the hearing, Mr. Staats
13 and Mrs. Staats each executed a power of attorney giving their daughter
14 (Daughter) immediate authority to exercise powers, rights, or authority as a
15 partner or manager of a partnership. The power of attorney covered, among
16 other things, Palomar. The Daughter was not licensed under the Act, nor had she
17 applied for a license. Respondents failed to disclose the existence and substance
18 of the power of attorney to the Commission and Bureau until 2015.
- 19 b. Mr. Staats and Mrs. Staats lack the mental capacity to oversee Palomar's
20 operations, to exercise control over the card room, and to fulfill their duties and
21 responsibilities under the Act. Without notifying the Commission and the
22 Bureau, they ceded oversight and control to the Daughter, who was unlicensed.
- 23 c. In the Order, the Commission imposed a condition on Respondents' continued
24 licensure requiring notification, and interim licensing, with respect to any future
25 incapacity of Mr. Staats and Mrs. Staats. Respondents failed to timely comply
26 with that condition.

27
28

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

Dated: October 7TH, 2015



WAYNE J. QUINT, JR., Chief
Bureau of Gambling Control
California Department of Justice

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

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

4. Business and Professions Code section 19826 provides, in part:

The department² . . . shall have all of the following responsibilities:

* * *

(c) To investigate suspected violations of this chapter or laws of this state relating to gambling

* * *

(e) To initiate, where appropriate, disciplinary actions as provided in this chapter. In connection with any disciplinary action, the department may seek restriction, limitation, suspension, or revocation of any license or approval, or the imposition of any fine upon any person licensed or approved.

5. California Code of Regulations, title 4, section 12554 provides, in part:

(a) Upon the filing with the Commission of an accusation by the Bureau recommending revocation, suspension, or other discipline of a holder of a license, registration, permit, finding of suitability, or approval, the Commission shall proceed under Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

* * *

(d) Upon a finding of a violation of the Act, any regulations adopted pursuant thereto, any law related to gambling or gambling establishments, violation of a previously imposed disciplinary or license condition, or laws whose violation is materially related to suitability for a license, registration, permit, or approval, the Commission may do any one or more of the following:

(1) Revoke the license, registration, permit, finding of suitability, or approval;

(2) Suspend the license, registration, or permit;

* * *

² "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

1 (5) Impose any fine or monetary penalty consistent with
2 Business and Professions Code sections 19930, subdivision (c), and
3 19943, subdivision (b)

4 **Cost Recovery Provisions**

5 6. Business and Professions Code section 19930 provides, in part:

6 (b) If, after any investigation, the department is satisfied that a license,
7 permit, finding of suitability, or approval should be suspended or revoked, it
8 shall file an accusation with the commission in accordance with Chapter 5
9 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
10 Government Code.

11 * * *

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

17 (1) The costs assessed pursuant to this subdivision shall be fixed
18 by the administrative law judge and may not be increased by the
19 commission. When the commission does not adopt a proposed decision
20 and remands the case to the administrative law judge, the administrative
21 law judge may not increase the amount of any costs assessed in the
22 proposed decision.

23 (2) The department may enforce the order for payment in the
24 superior court in the county in which the administrative hearing was
25 held. The right of enforcement shall be in addition to any other rights
26 that the division may have as to any licensee to pay costs.

27 (3) In any judicial action for the recovery of costs, proof of the
28 commission's decision shall be conclusive proof of the validity of the
order of payment and the terms for payment.

* * *

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

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

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

1 **Specific Statutory and Regulatory Provisions**

2 7. Business and Professions Code, section 19801 provides, in part:

3 (h) Public trust and confidence can only be maintained by strict
4 comprehensive regulation of all persons, locations, practices,
5 associations, and activities related to the operation of lawful gambling
6 establishments and the manufacture and distribution of permissible
7 gambling equipment.

8 (i) All gambling operations, all persons having a significant
9 involvement in gambling operations, all establishments where gambling
10 is conducted, and all manufacturers, sellers, and distributors of gambling
11 equipment must be licensed and regulated to protect the public health,
12 safety, and general welfare of the residents of this state as an exercise of
13 the police powers of the state.

14 * * *

15 (k) In order to effectuate state policy as declared herein, it is
16 necessary that gambling establishments, activities, and equipment be
17 licensed, that persons participating in those activities be licensed or
18 registered, that certain transactions, events, and processes involving
19 gambling establishments and owners of gambling establishments be
20 subject to prior approval or permission, that unsuitable persons not be
21 permitted to associate with gambling activities or gambling
22 establishments Any license or permit issued, or other approval
23 granted pursuant to this chapter, is declared to be a revocable privilege,
24 and no holder acquires any vested right therein or thereunder.

25 8. Business and Professions Code section 19850 provides, in part:

26 Every person . . . who receives, directly or indirectly, any
27 compensation or reward, or any percentage or share of the money or
28 property played, for keeping, running, or carrying on any controlled
game in this state, shall apply for and obtain from the commission, and
shall thereafter maintain, a valid state gambling license, key employee
license, or work permit In any criminal prosecution for violation of
this section, the punishment shall be as provided in Section 337j of the
Penal Code.

9. Business and Professions Code section 19852 provides, in part:

[A]n owner of a gambling enterprise that is not a natural person shall
not be eligible for a state gambling license unless each of the following
persons individually applies for an obtains a state gambling license:

* * *

1 (d) If the owner is a partnership, then every general . . . partner of,
2 and every trustee or person . . . having or acquiring a direct or
3 beneficial interest, in that partnership owner.

4 * * *

5 (i) Every employee, agent, guardian, personal representative,
6 lender, or holder of indebtedness of the owner who, in the judgment of
7 the commission, has the power to exercise significant influence over the
8 gambling operation.

9 10. Business and Professions Code section 19855 provides, in part:

11 [E]very person who, by statute or regulation, is required to hold a state
12 license shall obtain the license prior to engaging in the activity or
13 occupying the position with respect to which the license is required.

14 11. Business and Professions Code section 19857 provides:

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

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

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

26 (c) A person that is in all other respects qualified to be licensed as
27 provided in this chapter.

28 12. Business and Professions Code section 19859 provides, in part:

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
qualification in accordance with this chapter.

(b) Failure of the applicant to provide information,
documentation, and assurances required by the Chief, 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.

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

13. Business and Professions Code section 19866 provides:

An applicant for licensing or for any approval or consent required by this chapter, shall make full and true disclosure of all information to the department and the commission as necessary to carry out the policies of this state relating to licensing, registration, and control of gambling.

14. 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.

15. 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.

16. California Code of Regulations, title 4, section 12556, subdivision (c), provides, in part:

A state gambling license, finding of suitability, or approval granted by the Commission . . . and an owner license for a gambling establishment if the owner licensee has committed a separate violation from any violations committed by the gambling establishment shall be subject to revocation by the Commission on any of the following grounds:

* * *

(3) If the Commission finds the holder no longer meets any criterion for eligibility, qualification, suitability or continued operation, including those set forth in Business and Professions Code section 19857, 19858, or 19880, as applicable, or

(4) If the Commission finds the holder currently meets any of the criteria for mandatory denial of an application set forth in Business and Professions Code sections 19859 or 19860.