

**CITY OF LONG BEACH**DEPARTMENT OF FINANCIAL MANAGEMENT  
COMMERCIAL SERVICES BUREAU

333 West Ocean Boulevard • Long Beach, CA 90802

**NOTICE OF FINAL ACTION**October 19, 2004

**Request:** Revocation Hearing to Revoke Business License No. 20132560 Held by Gameplay, Located at 6543 East Spring Street, Long Beach, California

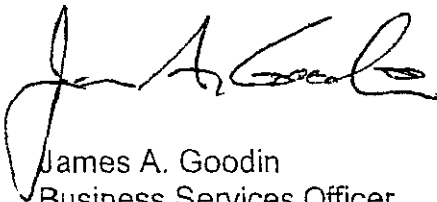
**Requested by:** Anthony W. Batts, Chief of Police

**Action Was Taken By:** James A. Goodin, Business Services Officer, City of Long Beach

**Decision:** Revocation Approved as Requested

**Action is Final On:** October 19, 2004

A report of the findings, conclusions, and decision of the Business Services Officer is attached. This decision is appealable pursuant to LBMC 3.80.429.5. Should you wish to appeal the revocation of the business license to the Long Beach City Council, you may do so by filing a notice of appeal with the Director of Financial Management within ten days of the date of this notice. The notice of appeal shall set forth the specific grounds on which it is based. It should be sent to the undersigned along with a nonrefundable filing fee of \$1,050.00.



James A. Goodin  
Business Services Officer

JAG:gc

Attachment

cc: Anthony Batts, Chief of Police  
Michael Killebrew, Acting Director of Financial Management  
Cristyl Meyers, Deputy City Attorney

Notice of Final Action - Gameplay

**Findings, Conclusions, and Decision  
of the Department of Financial Management  
of the City of Long Beach  
Regarding the Hearing  
to Revoke the Business License  
of Gameplay, 6543 East Spring Street**

In a letter dated May 12, 2004, Chief of Police Anthony W. Batts requested that the business license of Gameplay, located at 6543 E. Spring Street be revoked on the basis of criminal violations. The Business Services Officer reviewed this letter, concurred with the recommendation, and set a hearing date of October 12, 2004. Written notice was provided to Gameplay on October 1, 2004.

The above-described matters were heard by the Business Services Officer, Mr. James A. Goodin, designated to act as hearing officer by the Acting Director of Financial Management, on October 12, 2004 at 10:00 a.m. in the 6<sup>th</sup> Floor Conference Room of the Long Beach City Hall. The hearing was conducted pursuant to Long Beach Municipal Code (LBMC) section 3.80.429.1, with the purpose of the hearing being for Gameplay to show cause why the business license should not be revoked. The hearing was tape-recorded.

Deputy City Attorney Cristyl Meyers represented the City of Long Beach and Thomas Widger of Johnson & Associates represented Gameplay. Michael Killebrew, Jeannine Montoya and Lois Catrett, all of the Department of Financial Management, were also present.

Oral and documentary evidence was introduced by the City and by Gameplay during the hearing. Opportunity was given to cross-exam all witnesses. Both sides presented final argument and submitted the matter to the hearing officer for decision. Mr. Goodin took the matter under submission.

The following witnesses were called, sworn and gave testimony at this hearing:

Detective Mario Razo, Long Beach Police Department  
Detective John Bruce, Long Beach Police Department  
Mr. Walter Sandoval, C.E.O., ACCO Enterprises Inc., DBA Gameplay

The following evidence was introduced by the City:

Exhibits 1, 2, 3	Buy Back Books in three loose-leaf binders (by reference)
Exhibit 4	Four DVDs with original price tags removed (by reference)
Exhibit 5	Two DVDs without price tags removed (by reference)
Exhibit 6	Certificate of Conviction of Ramon Santos Lim
Exhibit 7	Letter from Chief of Police to Director of Financial Management, dated May 12, 2004

The following evidence was introduced by Gameplay:

- |           |  |
|-----------|--|
| Exhibit A | Receipts showing purchases of DVDs from other retailers, such as Target and Wal-Mart |
| Exhibit B | Employee Acknowledgement Form  |

### Testimony for the City

1. Detective Mario Razo, Long Beach Police Department. Detective Razo described the police investigation of Gameplay commencing in January 2004 after receiving information that they were buying stolen property. John Gallow, arrested for stealing merchandise from Target, assisted in the investigation. Detective Razo described how Mr. Gallow would get a list of merchandise from Gameplay, steal the merchandise from Target, and then sell the merchandise to Walter Sandoval at Gameplay, all of which is captured on videotape. Mr. Gallow told Detective Razo that he sold stolen merchandise to Walter Sandoval over a period of 1 1/2 years. Under cross-examination Detective Razo stated that he did not have first hand knowledge that John Gallow sold stolen merchandise to Gameplay. The videotape showing Mr. Gallow in Gameplay did not have sound and Detective Razo accepted Mr. Gallow's version of discussions that were taking place on the tape.

Detective Razo further testified that an undercover detective entered Gameplay and sold merchandise, which had been represented as stolen, to Gameplay assistant manager Ramon Lim. In the presence of the undercover detective Mr. Lim called Griselda Sandoval for authorization to purchase stolen merchandise. He received the authorization from Griselda Sandoval over the telephone. Mr. Lim was subsequently convicted of receiving stolen property, a felony (Exhibit 6). Detective Razo discussed exhibits 1, 2, and 3, which are Buy Back Books from Gameplay, which were used to record purchases of stolen property. Each page in the three binders is an individual purchase of merchandise by Gameplay. Many of the pages indicated purchases from Mr. Gallow (aka Pancho). Many of the pages were initialed by either Ramon Lim or Walter Sandoval. Most of the purchases were small numbers, six to twelve DVDs or games, and many indicated multiple copies of the same DVD or game, unusual for a customer returning merchandise. Detective Razo also discussed exhibits 4 and 5. Exhibit 4 was four new DVDs confiscated from Gameplay showing signs of the original price tags having been removed. Detective Razo had taken statements from store employees who said they had removed the price labels from other retail stores, like Target.

2. Detective John Bruce, Long Beach Police Department. Detective Bruce assisted Detective Razo in the investigation of Gameplay. He indicated that the letter and attached incident reports from Chief of Police Batts (Exhibit 7) reflected the facts of the investigation. The crime report (Incident Report 04-16307) attached to Exhibit 7 states the John Gallow indicated he sold stolen merchandise to owner Walter Sandoval, Henry Sandoval, and store manager Richard Ramiriz. The crime report indicated that Ramon

Lim said that for his first three years working at the store, either Walter, or Henry, or Griselda Sandoval would take care of the buy back customers. After three years, Walter Sandoval promoted Ramon Lim to assistant manager and taught him how to process buy backs. Mr. Lim indicated that all buy backs had to be called in to Walter, Henry, or Griselda Sandoval.

Detective Bruce also testified that he compared the business practices used by Gameplay for buying back merchandise to a similar store, Game Stop. At Gameplay buy back merchandise was taken to the back room. Cash to pay for the merchandise was brought from the back room, instead of being taken from the cash register. No receipts were given for the buy back merchandise. At the similar store, Game Stop, buy back merchandise is always paid for with store credit, not cash; transactions always take place at the counter; they do not buy multiple copies of the same merchandise; they do purchase merchandise still in the original wrapper; and receipts are always provided for buy back merchandise. It was Detective Bruce's opinion that Walter Sandoval had to know that the buy back merchandise was stolen.

### **Gameplay Testimony**

Walter Sandoval, C.E.O. of ACCO Enterprises, DBA Gameplay. Mr. Sandoval testified that it was store policy not to accept stolen goods and that he had instructed his managers and employees in that policy. However, it was not until after the arrest of Ramon Lim that employees started signing a form acknowledging this instruction. A blank form was introduced as Exhibit B. No forms that had been completed by employees were introduced.

Walter Sandoval also testified that he only bought new merchandise from wholesalers and retailers; most buy backs were for store credit, but sometimes in cash. He introduced Exhibit A, containing about 40 receipts for DVDs and games from retailers, like Wal-Mart, Target, and Toys-R-Us. Mr. Sandoval testified that Gameplay purchased merchandise from these retailers on sale and then resold them at Gameplay for a small markup. He testified that Gameplay made the most profit on used, not new merchandise.

Under cross-examination, Mr. Sandoval stated that he did buy what were apparently new DVDs from John Gallow, who he only knew as Pancho. He said that "Pancho" stated that he was a wholesaler, but did not check any documentation. Mr. Sandoval also stated that he did not give receipts to "Pancho" for merchandise purchased from him.

### **Findings**

1. On August 3, 2001, Walter Sandoval applied for a business license for Gameplay, a retail electronic game, DVD, and electronics store at business address 6543 Spring

Street. The application indicated that the business was a corporation. The principle officers were listed as Walter Sandoval, President, and Henry Sandoval, Vice President. Business license BU20152360 was issued on August 15, 2002 and renewed annually thereafter. Griselda Sandoval was subsequently added to the business license account as point-of-contact.

2. Long Beach Municipal Code (LBMC) section 3.80.429.1(A) states, "Whenever any person fails to comply with any provision of this chapter pertaining to business license taxes or any rule or regulation adopted pursuant thereto or with any other provision or requirement of law...the Director of Financial Management, upon hearing...may revoke or suspend any one or more licenses held by such a person."

5. Ramon Lim, Assistant Manager of Gameplay, pleaded nolo contendere to receiving stolen property at Gameplay, a felony.

6. John Gallow was surveilled getting a list of merchandise from Gameplay, stealing the merchandise from Target, and selling the merchandise to Gameplay and was consequently arrested by the Long Beach Police Department. Mr. Gallow was subsequently convicted of theft.

7. By his statement, John Gallow sold stolen merchandise to Gameplay for 1½ years.

8. Store procedures as described by John Gallow, Ramon Lim, and Walter Sandoval had the appearance that Gameplay was knowingly buying stolen merchandise.

9. Testimony by Detectives Razo and Bruce and the statements they took from John Gallow and Ramon Lim indicate that Gameplay officers Walter Sandoval and Henry Sandoval and business license point-of-contact Griselda Sandoval were aware that Gameplay was buying and reselling stolen merchandise.

10. Following the arrest of Mr. Lim, Walter Sandoval implemented a new store policy that has store employees sign an employee acknowledgement that outlines procedures for buying back merchandise from customers intended to minimize the chance of buying stolen merchandise.

## **Conclusions**

1. Gameplay personnel purchased and resold stolen merchandise, a felony violation of the Penal Code of the State of California, with the knowledge of Gameplay management and ownership.

2. Gameplay failed to comply with a provision or requirement of law thereby authorizing the Director of Financial Management or designee to revoke or suspend any one or more business licenses held by Gameplay.

**Decision**

Based on the foregoing findings and conclusions and in accordance with LBMC section 3.80.429.1(A), Business License No. 20132560 held by Gameplay, 6543 East Spring Street, and corporation officers Walter Sandoval and Henry Sandoval and business license point-of-contact Griselda Sandoval, as of this date, is ordered revoked.

October 19, 2004

A handwritten signature in black ink, appearing to read 'James A. Goodin', written over a horizontal line.

James A. Goodin  
Business Services Officer  
Department of Financial Management  
City of Long Beach

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**VIA FEDERAL EXPRESS MAIL**

October 28, 2004

Mr. Michael Killebrew, Acting Director of Financial Management  
c/o Mr. James A. Goodin, Business Services Officer  
City of Long Beach / Commercial Services Bureau  
333 West Ocean Blvd.  
Long Beach, CA 90802

**RE: NOTICE OF APPEAL**

**Business License No.: 20132560**

**Business Address: 6543 East Spring Street**

Dear Mr. Killebrew:

On behalf of Mr. Walter Sandoval, permittee of the above-referenced business license, we hereby appeal the Notice of Final Action dated October 19, 2004 pursuant to Long Beach Municipal Code Section 5.06.030. Enclosed is the filing fee of \$1,050.00. The grounds for the appeal are set forth as follows:

1. The Hearing Officer Unreasonably Relied on the Statements of Witnesses not Present at the Hearing.

The evidence to support the allegation that Mr. Sandoval actively and knowingly purchased stolen property is dependant on the statements of two witnesses, neither of which testified at the hearing. Those witness statements were made by Ramon Lim, a former employee of Game Play's, and by John Gallow, a convicted felon who had sold stolen merchandise to Game Play. The hearing officer unreasonably relied on the testimony of two Long Beach police officers as to the substance of those two witness statements.

- (a) *John Gallow's statement to the police is unsupported by evidence and is inherently unreliable.*

Detective Mario Ruzo testified that he did not have any first-hand knowledge or independent evidence to support John Gallow's statement that Game Play had knowingly purchased stolen property from him for a period of 1 ½ years. Detective Ruzo stated that Mr. Gallow was shown on Game Play's surveillance video coming to the store to retrieve a list of videos that Game Play was interested in purchasing. A short while thereafter, a Target store surveillance video caught Mr. Gallow stealing videos. These videos do not, however, show any evidence of Mr. Sandoval's knowledge that Mr. Gallow was a thief or that he planned to steal the videos and return to Game Play in order to sell them.

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Mr. Michael Killebrew, Acting Director of Financial Management

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No evidence even suggests Mr. Sandoval knew Mr. Gallow had been stealing the merchandise he was selling to Game Play other than his statement to the police, made after Mr. Gallow was arrested for felony theft. That statement, however, is inherently unreliable because of the nature in which it was obtained. Mr. Gallow had a clear incentive to appear to cooperate with the police and to implicate other people in his crimes in order to lessen his own culpability. Mr. Gallow's statement to the police was not made under penalty of perjury or in the presence of counsel, and since Mr. Gallow did not testify at Mr. Sandoval's hearing, Mr. Sandoval has never had the opportunity to cross-examine him. It is therefore unreasonable to rely on Mr. Gallow's statement to police as evidence of Mr. Sandoval's alleged criminal intent.

(b) *Ramon Lim's statement to the police is also inherently unreliable.*

~~The hearing officer was also unreasonable in relying on the statement Ramon Lim gave to the police, which implied that Mr. Sandoval had a store policy of purchasing stolen merchandise and that Mr. Lim was authorized to make such purchases.~~

Section 5.06.010 (A)(1) of the Long Beach Municipal Code authorized the City to revoke a business license if "the permittee or any other person authorized by the permittee has been convicted of violation of [law]" (emphasis added). In this case, testimony of the investigating officers confirmed that they have no first-hand knowledge of Mr. Lim having authorization to purchase stolen property. In fact, Detective Ruzo testified that when Mr. Lim called Griselda Sandoval to approve the purchase of the undercover officer's merchandise, Mr. Lim made no mention of the fact that the officer had said that the merchandise was stolen. Mr. Sandoval testified that if he or Griselda had known the officer had represented the merchandise as being stolen, he or Griselda would have told Mr. Lim to refuse to purchase it.

Although Detective Ruzo testified that Mr. Lim's statement to them was "signed" by Mr. Lim, he also testified that Mr. Lim did not write the statement itself and that it was transcribed by another officer. In fact, Mr. Lim signed the statement after he was arrested for receiving stolen property, a felony. The statement was not made under penalty of perjury or in the presence of counsel, and Mr. Sandoval has not had the opportunity to cross-examine Mr. Lim as to the substance of the statement. Mr. Sandoval testified that on the day of Mr. Lim's arrest, the police intimidated store employees. He stated that the police "asked to see their green cards" and "threatened to deport them" if they didn't cooperate, despite all of them being citizens or lawful permanent residents of the United States. In this environment, Mr. Lim, only 28 years old at the time, was certainly willing to sign a statement in order to avoid harsh criminal penalties and to appear to cooperate with the police in implicating the store owner. Indeed, his cooperation was rewarded, as he was not sentenced to jail or ordered to pay a fine.

No evidence supports the notion that Mr. Lim was authorized by the permittee to purchase stolen merchandise other than Mr. Lim's statement to the police, which was drafted by the police and signed under duress. It was therefore unreasonable for the hearing officer to rely on this statement as evidence of Mr. Sandoval's alleged criminal intent.



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2. The Hearing Officer did not Consider All Evidence Offered by Mr. Sandoval.

Mr. Sandoval brought to the hearing certain documents to show good cause why his business license should not be revoked. The hearing officer declined to receive or review any of the documents, indicating that he did not want to take the time to review Mr. Sandoval's evidence.

The evidence which the hearing officer refused to consider, however, is central to Mr. Sandoval's case. The documents pertain to the merchandise which was seized by the Long Beach Police Department in connection with the arrest of Ramon Lim. The police documented the merchandise seized by completing a Property Report listing a description each piece of such merchandise. The binders submitted by Mr. Sandoval at the hearing contain those Property Reports as well as documentation tracing the source of over 90% of the merchandise listed in those reports. The documentation demonstrates that Mr. Sandoval acquired almost all of the merchandise from legitimate and lawful commercial sources. Mr. Sandoval testified that most of the remaining 10% was attributable to small transactions in which customers exchanged single used items for store credit on new items. It was therefore unreasonable for the hearing officer to refuse to review such documentary evidence.

The documentation submitted by Mr. Sandoval, and rejected by the hearing officer, is concrete evidence that demonstrates the lawful business practices of Game Play and exonerates Mr. Sandoval. The City Attorney and the Long Beach Police allege that Mr. Sandoval is operating a criminal fencing operation. Mr. Sandoval must be given every opportunity to refute that allegation, including the opportunity to present documentary evidence of the lawful source of his merchandise.

3. The Hearing Officer did not Give Adequate Consideration of Mr. Sandoval's Efforts to Promote Business Ethics in the Future.

The purpose of the hearing was to determine whether there was good cause not to revoke Mr. Sandoval's license. Although Mr. Sandoval denies the basis for the revocation, he also wishes to emphasize the ways in which he is committed to operating his business in compliance with all laws and regulations. Since the arrest of his employee, Mr. Lim, Mr. Sandoval has redoubled his efforts to promote an ethical and law abiding business environment at Game Play. The hearing officer did not give adequate weight to this factor in determining whether good cause exists.

Mr. Sandoval has instructed all employees at Game Play that purchasing stolen goods is a crime and that they should refuse to purchase any merchandise from someone who says that it is stolen, and to refuse to purchase merchandise that appears to be stolen based on the suspicious circumstances of the sale. In addition, he has required all of his employees to sign an acknowledgement of the referenced store policy.

In addition, for all second-hand purchases other than very small transactions for one or two items, Mr. Sandoval has made it store policy to require the seller to provide a photo I.D., the information of which is copied to a receipt showing the item purchased, the date, and the seller's name, address, and I.D. number.

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Mr. Michael Killebrew, Acting Director of Financial Management

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Lastly, to avoid making purchases from people such as John Gallow, who mask themselves as legitimate wholesalers, Mr. Sandoval has made it a store policy to deal only with reputable wholesalers that can demonstrate the origins of their merchandise.

Mr. Sandoval is committed to preventing the possibility of his store purchasing stolen merchandise. The City of Long Beach is similarly committed to such a goal. If that goal can be reached by means other than depriving Mr. Sandoval of his right to operate a legitimate business, they should be adopted. Mr. Sandoval has shown a willingness to take any action to prevent receiving stolen property, and will comply with any remedial measures the City of Long Beach wishes to impose. This willingness should be rewarded and recognized as good cause not to revoke his business license.

~~Therefore, we submit this Notice of Appeal on behalf of Mr. Sandoval and request that the City of Long Beach redress the failures of the hearing officer as outlined above.~~

Sincerely yours,

JOHNSON & ASSOCIATES



Thomas A. Widger  
for the firm