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9
10 **BEFORE THE**
11
12 **CALIFORNIA GAMBLING CONTROL COMMISSION**
13
14 **STATE OF CALIFORNIA**

15 **In the Matter of the Accusation Against:**

BGC Case No. HQ2011-0001AC

16 **STANLEY PENN, sole proprietor**
17 **LUCKY LADY CARD ROOM**

18 **License Number GEGE-000950,**

DEFAULT DECISION AND ORDER –
MICHAEL PENN

19 **and**

(Gov. Code, § 11520)

20 **MICHAEL PENN, key employee**
21 **LUCKY LADY CARD ROOM**

22 **License No. GEKE-001243,**

23 **5526 El Cajon Blvd.**
24 **San Diego, CA 92115.**

25 **Respondents.**
26
27
28

1 FINDINGS OF FACT

2 1. On or about November 7, 2011, Complainant Martin Horan IV, solely in his official
3 capacity as the Acting Chief of the California Department of Justice, Bureau of Gambling Control,
4 filed and served Accusation No. HQ2011-0001AC (Accusation) against Michael Penn
5 (Respondent) before the California Gambling Control Commission (Commission). A copy of the
6 Accusation is attached as Attachment A and incorporated herein by reference.

7 2. On or about November 16, 2011, Respondent filed a timely Notice of Defense to the
8 Accusation.

9 3. On or about April 11, 2012, Respondent voluntarily and knowingly withdrew his
10 Notice of Defense to the Accusation. On or about July 11, 2012, Respondent knowingly and
11 voluntarily restated his withdrawal of his Notice of Defense to the Accusation. A copy of
12 Respondent's Withdrawal of Notice of Defense and his Reiteration of Withdrawal of Notice of
13 Defense are attached as Attachment B and incorporated herein by reference.

14 JURISDICTION

15 4. Government Code section 11503 provides in pertinent part:

16 A hearing to determine whether a right, authority, license, or
17 privilege should be revoked, suspended, limited or conditioned shall be
initiated by filing an accusation.

18 5. Government Code section 11506, subdivision (c), provides in pertinent part:

19 The respondent shall be entitled to a hearing on the merits if the
20 respondent files a notice of defense, and shall be deemed a specific
21 denial of all parts of the accusation not expressly admitted. Failure to
22 file a notice of defense shall constitute a waiver of respondent's right
to a hearing, but the agency in its discretion may nevertheless grant a
hearing.

23 6. Government Code section 11520, subdivision (a), provides:

24 If the respondent either fails to file a notice of defense or to
25 appear at the hearing, the agency may take action based upon
26 respondent's express admissions or upon other evidence and
27 affidavits may be used as evidence without any notice to
28 respondent; and where the burden of proof is on the respondent to
establish that respondent is entitled to the agency action sought, the
agency may take action without taking evidence.

1 DETERMINATION OF ISSUES

2 7. Based on the foregoing findings of fact, Respondent has subjected his key employee
3 license to revocation.

4 8. Service of Accusation No. HQ2011-0001AC and all related documents was proper
5 and in accordance with the law.

6 9. As a result of Respondent's voluntary and knowing withdrawal of his Notice of
7 Defense the Commission has jurisdiction to adjudicate this case by default and to order the
8 revocation of Respondent's key employee license, as expressly acknowledged and agreed to by
9 Respondent in his Withdrawal of Notice of Defense and again in his Reiteration of Withdrawal of
10 Notice of Defense.

11 10. The Commission is authorized to revoke Respondent's key employee license based
12 upon the following violations alleged in the Accusation.

13 a. Respondent license is subject to revocation pursuant to Business and Professions
14 Code section 19823, subdivisions (a)(1) and (2), and California Code of Regulations, title 4,
15 section 12568, subdivision (a)(6), in that Respondent operated the Lucky Lady Card Room in a
16 manner that put the health, safety and/or general welfare of the patrons and/or employees of the
17 gambling establishment at risk. On or about April 17, 2010, at approximately 3:00 p.m.,
18 Respondent was responsible for the operation and security of the cage in the Lucky Lady Card
19 Room. At that time he left the cage unattended and unlocked, with unsecured cash visible from
20 outside of the cage area. As a result, a theft occurred. The cage was entered by an unauthorized
21 person and approximately \$36,832.00 was stolen. At the time of the theft there were about 50
22 employees and patrons inside the gambling establishment.

23 ORDER

24 IT IS SO ORDERED that Respondent's key employee license, number GEKE-001243, is
25 revoked.

26 Pursuant to government Code section 11520, subdivision (c), Respondent may serve a
27 written motion requesting that this Default Decision and Order be vacated and stating the grounds
28 relied on within seven (7) days after service of this Default Decision and Order on Respondent.

1 The Commission in its discretion may vacate this Default Decision and Order and grant a
2 hearing on a showing of good cause, as defined in the statute.

3
4 This Default Decision and Order shall become effective on _____.

5
6 IT IS SO ORDERED

7 Dated: Aug. 29, 2012

8 Signature: Stephanie Shimazu
Stephanie Shimazu, Chairperson

9
10 Dated: Aug. 29, 2012

11 Signature: Tiffany E. Conklin
Tiffany E. Conklin, Commissioner

12 Dated: Aug. 29, 2012

13 Signature: Lauren Hammond
Lauren Hammond, Commissioner

14
15 Dated: August 29, 2012

16 Signature: Richard Schuetz
Richard Schuetz, Commissioner