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

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

15 **POINT-WALKER, INC.,**
16 **LUCKY DERBY CASINO**
17 **7433 C Greenback Lane**
Citrus Heights, CA 95610

18 **License Numbers GEGE - 000407, and**
19 **GEOW-000993**

20 **Kermit D. Schayltz**

21 **License Number GEOW- 000994**

BGC Case No. SA2008-00036

OAH No. 2011-03-0453

**FIRST AMENDED STIPULATED
SETTLEMENT AND DISCIPLINARY
ORDER**

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23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceeding that the following matters are true:

25 **PARTIES**

26 1. At the time this action was brought, Jacob A. Appelsmith was the Chief of the Bureau
27 of Gambling Control, California Department of Justice ("Bureau"), and brought this action solely
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1 in his official capacity and was represented in this matter by Edmund G. Brown Jr., Attorney
2 General of the State of California, by Neil D. Houston, Deputy Attorney General. On or about
3 January 3, 2011, Martin J. Horan IV, became Acting Chief of the Bureau and is now the
4 complainant in this action solely in his official capacity ("Complainant"). Acting Chief Horan is
5 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
6 Neil D. Houston, Deputy Attorney General.

7 2. Respondent Point-Walker, Inc. owns, as a corporate entity, the gambling enterprise
8 presently known and doing business as the Lucky Derby Casino, located at 7433 Greenback
9 Lane, Suite C, Citrus Heights, California, 95610. Respondent Point-Walker, Inc. is presently the
10 holder of gambling license numbers GEGE-0000407 and GEOW-0000993 issued by the
11 California Gambling Control Commission ("Commission"). Respondent Kermit Schayltz
12 (Schayltz) is a shareholder of Point-Walker, Inc., and is presently the holder of Commission-
13 issued gambling license number GEOW-000994. All of the foregoing licenses were in full force
14 and effect at all times relevant herein and will expire on February 28, 2013, unless renewed or
15 otherwise extended. Point-Walker, Inc., and Schayltz are collectively referred to herein as
16 "Respondents," but the term "Respondents" may also apply separately to each licensee if and
17 when the context of its use so requires.

18 JURISDICTION

19 3. Accusation No. BGC SA2008-00036 was filed before the Commission and is
20 currently pending against Respondents. The Accusation and all other statutorily required
21 documents were properly served on Respondents on December 31, 2010. Respondents timely
22 filed a Notice of Defense contesting the Accusation. A copy of Accusation No. BGC SA2008-
23 00036 is attached as Exhibit A and is incorporated herein by reference. A hearing on the
24 Accusation was set for September 15, 2011. Prior to that hearing, the parties entered into a
25 Stipulated Settlement and Disciplinary Order, and the hearing was taken off calendar.
26 Subsequently, the Commission declined to approve that Stipulated Settlement and Disciplinary
27 Order, and reset this matter for hearing on October 16, 2012. The parties then entered into this
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1 First Amended Stipulated Settlement and Disciplinary Order, and the latter hearing was taken off
2 calendar.

3 4. The parties agree that the Commission has jurisdiction over this matter and has
4 authority to approve this First Amended Stipulated Settlement and Disciplinary Order.

5 **CONTINGENCY**

6 5. This First Amended Stipulated Settlement (“Stipulation”) is subject to final approval
7 by the Commission. This Stipulation shall be submitted by the Complainant to the Commission
8 for approval at a noticed Commission meeting. Respondents shall be provided with written
9 notice of the time, date, and place of the meeting at which this Stipulation will be considered by
10 the Commission. Respondents understand and agree that Respondents may not withdraw their
11 agreement or seek to rescind the Stipulation prior to the time the Commission considers and acts
12 upon it. If the Commission fails to adopt this Stipulation as its decision and order, the Stipulation
13 shall be of no force or effect, except that Complainant and Respondents agree that this Stipulation
14 shall be inadmissible in any legal action between the parties or for any purpose, and the
15 Commission shall not be disqualified from further action by having considered this matter.

16 6. If the Commission rejects this Stipulation as its decision and order, and no amended
17 agreement or settlement is reached before two additional regularly noticed Commission meetings
18 have concluded or sixty (60) days have elapsed, whichever is later, the Bureau shall proceed with
19 a formal evidentiary hearing of the charges in Accusation No. BGC SA2008-00036, before an
20 Administrative Law Judge from the Office of Administrative Hearings.

21 **ADVISEMENT AND WAIVERS**

22 7. Respondents have carefully read this Stipulation, and have been afforded the
23 opportunity to review and discuss its terms with counsel or other advisor(s) of Respondents’
24 choice. Respondents fully understand the charges and allegations in Accusation No. BGC
25 SA2008-00036, and Respondents fully understand the effects of this Stipulation.

26 8. Respondents are fully aware of their legal rights in this matter, including the right to
27 an administrative/evidentiary hearing on the charges and allegations in the Accusation; the right
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1 to confront and cross-examine witnesses; the right to present evidence and to testify; the right to
2 the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
6 every right set forth in paragraph 8, above, with respect to this matter and forever give up any
7 right to challenge the allegations in the Accusation, to appeal, and to challenge or collaterally
8 attack the terms of this Stipulation.

9 10. Respondents agree that counsel for the Bureau and the staff of the Bureau may
10 communicate directly with Commission and its staff regarding the contents of this Stipulation,
11 without notice to, or participation by, Respondents or their counsel or other adviser(s) of choice
12 prior to the Commission's consideration of this stipulation at a noticed Commission meeting, and
13 that no such communications shall be deemed a prohibited ex parte communication.

14 **CULPABILITY**

15 11. Respondents admit the truth of each and every charge and allegation made as to each
16 of them in Accusation No. BGC SA2008-00036. The admissions made by Respondents herein
17 are only for the purposes of this proceeding, or any other related proceedings in which the Bureau
18 or the Commission is involved or that involve licensed gambling activities, and shall not be
19 admissible in any criminal or civil proceeding.

20 12. Respondents agree that state gambling licenses GEGE-000407, GEOW-000993, and
21 GEOW-000994 are subject to discipline and agree to be bound by the Commission's imposition
22 of discipline as set forth in the Disciplinary Order below.

23 **OTHER MATTERS**

24 13. The parties understand and agree that electronically transmitted copies of this
25 Stipulation, including electronically transmitted signatures thereto, shall have the same force and
26 effect as the originals. This Stipulation may be executed in counterparts that when combined
27 shall have the same force and effect as a single original document.
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DISCIPLINARY ORDER

In consideration of the foregoing agreements, admissions, and stipulations, the parties agree that the Commission may issue and enter the following Disciplinary Order:

1. **Penalty.** Respondents collectively shall pay a fine of \$25,000.00. Of this amount, a first payment of \$5,000.00 shall be due and payable within ten (10) business days after service¹ upon Respondents of written notice of the Commission's adoption of the Stipulation above and this Disciplinary Order ("Notice"). A second payment of \$5,000.00 shall be due and payable no later than ninety (90) days after such Notice. A third payment of \$5,000.00 shall be due and payable no later than one hundred eighty (180) days after such Notice. The remaining \$10,000.00 of the fine shall be stayed for a period of one (1) year from the Commission's adoption of this Disciplinary Order, provided that Respondents comply with all provisions of probation stated below in this Stipulation and this Disciplinary Order. Upon Respondents' successful completion of a one (1)-year probationary period, the unpaid portion of the fine (\$10,000.00) shall be forgiven.

2. **Practice Suitable Methods of Operation.** Respondents shall not operate, or permit to be operated, any number of gaming tables in excess of the number authorized under state gambling licenses GEGE-000407, GEOW-000993, and GEOW-000994, or under such subsequent license(s) as may be issued to Respondents, if any.

3. **Cooperation with Commission and Bureau Staff.** Respondents shall cooperate during routine Bureau inspections and in the Bureau's and Commission's monitoring and investigation of Respondents' compliance with the terms and conditions of probation. Failure to cooperate may be deemed a violation of probation.

4. **Reimbursement of Bureau Costs.** Respondents agree to pay the Bureau the sum of \$7,500.00, as reasonable costs for the investigation and prosecution of this matter. Payment of such costs shall be due and payable in three (3) equal installments of \$2500.00, made

¹ As used herein, "service" shall mean the date of mailing.

1 contemporaneously with, and in addition to, the three (3) payments described in paragraph 1 of
2 this Disciplinary Order.

3 **5. Status of Licenses.** Except as provided in paragraph 6 of this Disciplinary Order,
4 Respondents shall, at all times when on probation, maintain active current licenses with the
5 Commission including any period during which suspension or probation is tolled. If
6 Respondents' licenses expire or are canceled by operation of law or otherwise, upon renewal or
7 re-application, Respondents' licenses shall be subject to all the terms and conditions of this
8 probation not previously satisfied.

9 **6. License Surrender While On Probation.** Following the effective date of this
10 Disciplinary Order:

11 a) Should Respondents cease operating the Lucky Derby Casino, whether as a
12 result of the sale of the assets of the Lucky Derby Casino, the sale or other transfer of the shares
13 of Point-Walker, Inc. to new owners, or otherwise, Respondents shall tender their license(s) to the
14 Commission for surrender. Upon acceptance of such surrender by the Commission, Respondents
15 shall have no remaining liability under the Stipulation above or this Disciplinary Order except as
16 expressly provided herein.

17 b) In the event Respondents surrender their license(s) prior to the expiration of the
18 probationary period set forth in paragraph 1 of this Disciplinary Order, acceptance of such
19 surrender by the Commission shall be conditioned upon the payment by Respondents of all
20 payments required under paragraphs 1 and 4 of this Disciplinary Order that at that time remain
21 unpaid, except for the portion of the fine that is stayed (\$10,000.00) pursuant to the terms of the
22 Stipulation above and this Disciplinary Order.

23 c) In the event Respondents seek re-licensure after surrender of the license(s)
24 identified in paragraph 2 of this Disciplinary Order, but before the expiration of the one (1)-year
25 probationary period, the terms of probation provided in paragraph 1 of this Disciplinary Order
26 shall be made a condition upon any such new license(s), and the provisions of paragraph 2 of this
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1 Disciplinary Order shall apply to such new license(s) based upon the number of tables authorized
2 thereunder.

3 **7. Violation of Probation Prior to Surrender.** If Respondents are found to have
4 violated paragraph 2 of this Disciplinary Order prior to the surrender of Respondents' license(s)
5 pursuant to paragraph 6 of this Disciplinary Order, the Commission may, after giving
6 Respondents notice and an opportunity to be heard, revoke probation, impose the penalty that was
7 stayed, and require the immediate payment of all unpaid fines and the reasonable costs of
8 investigation and prosecution described above, including the portion of the fine that was stayed
9 (\$10,000.00). Alternatively, the Commission may impose such other and lesser discipline as it
10 may deem just and proper. If the Bureau refers a petition to revoke probation, or an accusation, to
11 the Attorney General for preparation and filing with the Commission against Respondents during
12 probation, the Commission shall have continuing jurisdiction and the period of probation shall be
13 extended until the petition to revoke probation or accusation is heard and decided, provided
14 Respondents have been served with written notice of such referral within fifteen (15) calendar
15 days of same. If Respondents have not complied with any term or condition of probation, the
16 Commission shall have continuing jurisdiction over Respondents, and probation shall
17 automatically be extended until all terms and conditions have been satisfied or the Commission
18 has taken other action as deemed appropriate to treat the failure to comply as a violation of
19 probation, to terminate probation, and to impose the penalty that was stayed.

20 **8. Violation of Probation After Surrender.** If Respondents are found to have violated
21 paragraph 2 of this Disciplinary Order after the surrender of Respondents' license(s) pursuant to
22 paragraph 6 of this Disciplinary Order, but before the expiration of the probationary period set
23 forth in paragraph 1 of this Disciplinary Order, the Commission, after giving Respondents notice
24 and an opportunity to be heard, may revoke probation, impose the penalty that was stayed, and
25 require the immediate payment of the portion of the fine that was stayed (\$10,000.00).
26 Alternatively, the Commission may impose such other and lesser discipline as it may deem just
27 and proper. If the Bureau refers a petition to revoke probation, or an accusation, to the Attorney
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1 promptly provide Respondents with written notice of any such referral. If Respondents have not
2 complied with any term or condition of probation, the Commission shall have continuing
3 jurisdiction over Respondents, and probation shall automatically be extended until all terms and
4 conditions have been satisfied or the Commission has taken other action as deemed appropriate to
5 treat the failure to comply as a violation of probation; to terminate probation, and to impose the
6 penalty that was stayed.

7 **9. Effective Date.** This Disciplinary Order shall become effective upon service on
8 Respondents of written notice of the Commission's adoption of the Stipulation above and of this
9 Disciplinary Order.

10 **ACCEPTANCE**

11 Each of the Respondents has carefully read the above Stipulation and Disciplinary Order
12 and has been given the opportunity to review it with an attorney or other advisor of its/his choice.
13 Respondents understand the above Stipulation and Disciplinary Order and the effect they will
14 have on state gambling licenses GEGE-000407, GEOW-000993, and GEOW-000994, and upon
15 such new licenses as Respondents may later acquire. Respondents enter into the above
16 Stipulation and this Disciplinary Order voluntarily, knowingly, and intelligently. All corporate
17 formalities required to make the above Stipulation and this Disciplinary Order binding upon the
18 Respondents when executed by the undersigned have been undertaken and completed, and
19 Respondents agree to be bound by the Order of the Commission upon the signature of the
20 undersigned.

21 Dated: October 10, 2012

22 POINT-WALKER, INC.

23 By: 

24 Title: President

25 Dated: October 10, 2012

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27 KERMIT D. SCHAYLITZ, an individual.
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COMPLAINANT'S ACCEPTANCE

Dated: October 10, 2012



MARTIN J. HORAN IV, Assistant Chief
Bureau of Gambling Control

ENDORSEMENT

The foregoing First Amended Stipulated Settlement and Disciplinary Order are hereby respectfully submitted for consideration by the California Gambling Control Commission.

Dated: October _____, 2012

KAMALA D. HARRIS
Attorney General of the State of California

By: _____
NEIL D. HOUSTON
Deputy Attorney General
Attorneys for Complainant

Dated: October _____, 2012

FALK & SHARP, P.C.

By: _____
KEITH SHARP
Attorneys for Respondents

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By: _____

Title: _____

Dated: October _____, 2012

KERMIT D. SCHAYLTZ, an individual.

COMPLAINANT'S ACCEPTANCE

Dated: October _____, 2012

MARTIN J. HORAN IV, ~~Acting~~ Chief
Bureau of Gambling Control

Assistant (MJS)

ENDORSEMENT

The foregoing First Amended Stipulated Settlement and Disciplinary Order are hereby respectfully submitted for consideration by the California Gambling Control Commission.

Dated: October 11, 2012

KAMALA D. HARRIS
Attorney General of the State of California

By: _____
NEIL D. HOUSTON
Deputy Attorney General
Attorneys for Complainant

Dated: October 10, 2012

FALK & SHARP, P.C.

By: _____
KEITH SHARP
Attorneys for Respondents

1 **DECISION AND ORDER OF THE COMMISSION**

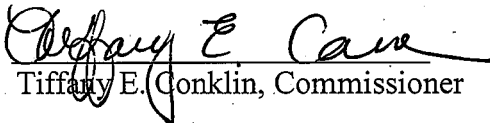
2 The foregoing First Amended Stipulated Settlement and Disciplinary Order of the parties
3 for the case of *In the Matter of the Accusation Against: Point-Walker, Inc., Lucky Derby Casino,*
4 *and Kermit D. Schayltz*, BGC Case No. SA2008-00036; OAH No. 2011-03-0453, has been
5 adopted by a majority vote of the California Gambling Control Commission as its final Decision
6 and Order in the matter and is effective upon execution below by the Commission members.

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9 **IT IS SO ORDERED**

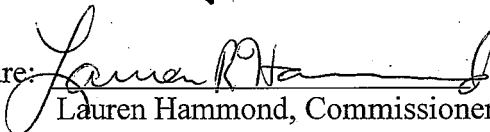
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11 Dated: _____

Signature: _____
Richard J. Lopes, Chairman

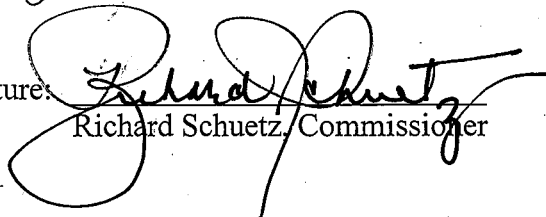
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14 Dated: March 7, 2013

Signature: 
Tiffany E. Conklin, Commissioner

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16 Dated: March 7, 2013

Signature: 
Lauren Hammond, Commissioner

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19 Dated: March 7, 2013

Signature: 
Richard Schuetz, Commissioner