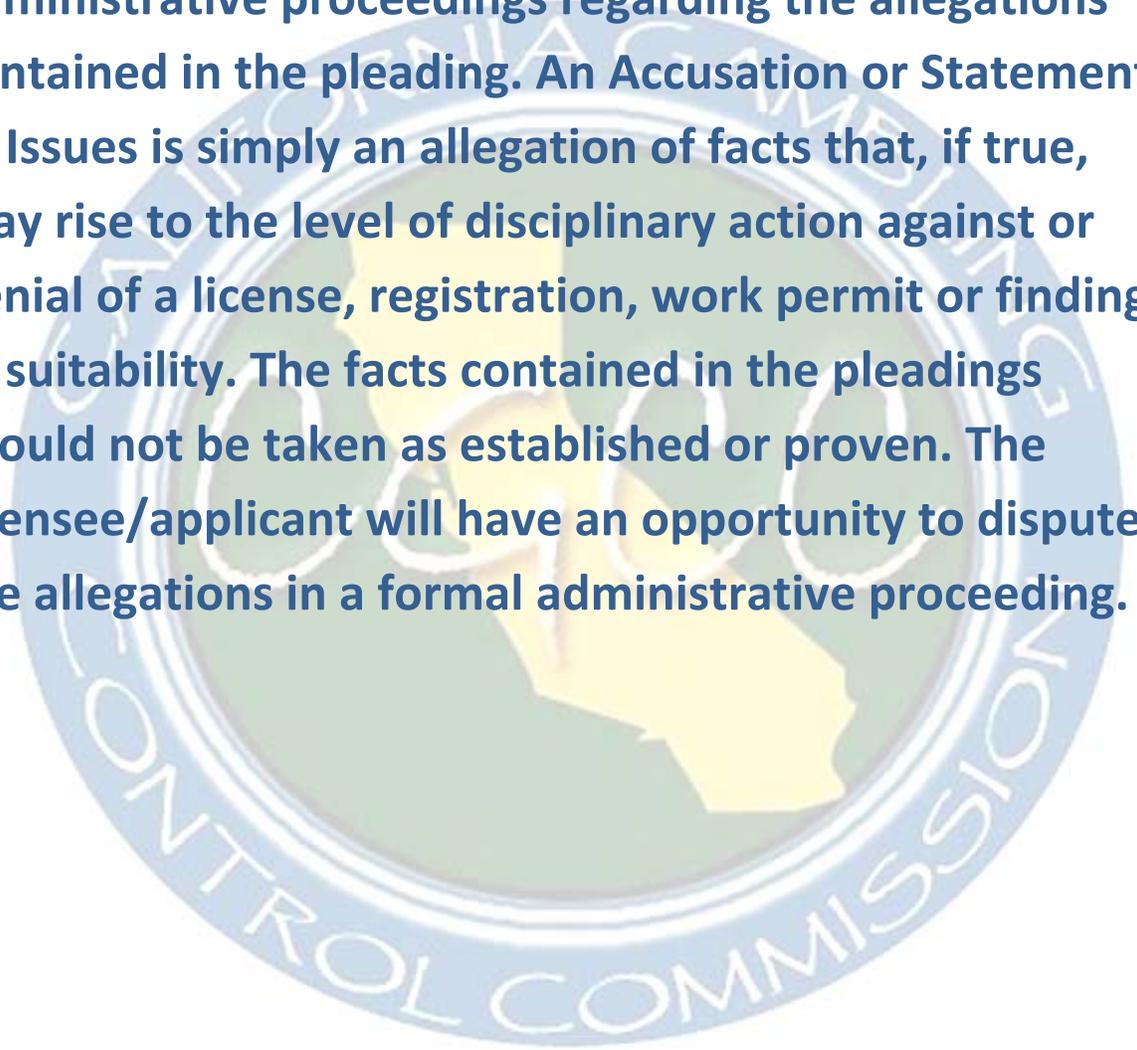


The Commission is providing a copy of this disciplinary pleading (Accusation, or Statement of Reasons, Statement of Particulars, or Statement of Issues) so the public is as informed as possible of pending administrative proceedings regarding the allegations contained in the pleading. An Accusation or Statement of Issues is simply an allegation of facts that, if true, may rise to the level of disciplinary action against or denial of a license, registration, work permit or finding of suitability. The facts contained in the pleadings should not be taken as established or proven. The licensee/applicant will have an opportunity to dispute the allegations in a formal administrative proceeding.



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

12
13 **In the Matter of the Accusation Against:**

14 **ARTICHOKE JOE'S (GEOW-002367),**
15 **doing business as Artichoke Joe's Casino**
16 **(GEGE-001007);**

17 **SALLY ANN JOHNSON FAMILY TRUST**
18 **(GEOW-003112);**

19 **HELEN SAMMUT LIVING TRUST**
20 **(GEOW-002390);**

21 **MICHAEL J. SAMMUT AJ STOCK**
22 **TRUST (GEOW-002388);**

23 **KAREN A. SAMMUT (GEOW-003370;**
24 **GEOW-002371);**

25 **DENNIS J. SAMMUT AJ STOCK TRUST**
26 **(GEOW-003368);**

27 **SALLY JOHNSON (GEOW-002368);**

28 **DENNIS J. SAMMUT (GEOW-003369);**
and

HELEN M. SAMMUT (GEOW-002370).

OAH No.

BGC Case No. HQ 2017-00004AC

ACCUSATION

1 **659 Huntington Avenue**
2 **San Bruno, CA 94066**

3 **Respondents.**

4 Complainant alleges as follows:

5 **PARTIES**

6 1. Nathan DaValle (Complainant) brings this Accusation solely in his official
7 capacity as the acting Director of the California Department of Justice, Bureau of Gambling
8 Control (Bureau).

9 2. Artichoke Joe's Casino (Casino) is a licensed gambling establishment, California
10 State Gambling License Number GEGE-001007. It is a 51-table card room presently operating
11 at 659 Huntington Avenue, San Bruno, California 94066. It is owned by Artichoke Joe's
12 (Corporation), which is licensed as license number GEOW-000961. The Corporation's officers
13 are Dennis J. Sammut (Dennis Sammut), license number GEOW-003369, and Helen M.
14 Sammut (Helen Sammut), license number GEOW-002370. Dennis Sammut and Helen
15 Sammut, along with Sally Johnson, whose license number is GEOW-002368, are the
16 Corporation's directors. The Corporation's shareholders (collectively, Shareholders) are: the
17 Sally Ann Johnson Family Trust, license number GEOW-00311, of which Sally Johnson is
18 trustee; the Helen Sammut Living Trust, license number GEOW-002390, of which Helen
19 Sammut is trustee; the Michael J. Sammut AJ Stock Trust, license number GEOW-00002388,
20 of which respondent Karen A. Sammut, whose license numbers are GEOW-003370 and
21 GEOW-002371, is trustee; and the Dennis J. Sammut AJ Stock Trust, license number GEOW-
22 003368, of which Dennis Sammut and Karen A. Summut are trustees. The Corporation, the
23 Shareholders, and the individual respondents are referred to in this Accusation as
24 "Respondents." Each Respondent is endorsed on the Casino's license pursuant to Business and
25 Professions Code section 19851, subdivision (b).¹

26
27 ¹ The statutes and regulations applicable to this Accusation are quoted in pertinent part
28 in Appendix A.

1 **JURISDICTION AND COST RECOVERY**

2 6. The Commission has jurisdiction over the operation and concentration of
3 gambling establishments and all persons and things having to do with operation of gambling
4 establishments. (Bus. & Prof. Code, § 19811, subd. (b).) The Act tasks the Bureau with,
5 among other responsibilities, investigating suspected violations of the Act and initiating
6 disciplinary actions. (Bus. & Prof. Code, §§ 19826, subds. (c) & (e) & 19930, subd. (b).) Upon
7 the Bureau filing an accusation, the Commission proceeds under Government Code section
8 11500 et seq. (Bus. & Prof Code, § 19930, subd. (b); see Cal. Code Regs., tit. 4, § 12554, subd.
9 (a).) The Commission’s disciplinary powers include, among other things, revocation and
10 imposition of a fine or monetary penalty. (Cal. Code Regs., tit. 4, § 12554, subd. (d).)

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

13 **STANDARD OF PROOF**

14 8. In a proceeding under the Act, the standard of proof is the preponderance of the
15 evidence, which “is such evidence as when considered and compared with that opposed to it,
16 has more convincing force, and produces a belief in the mind of the fact-finder that what is
17 sought to be proved is more likely true than not true.” (Cal. Code Regs., tit. 4, § 12554, subd.
18 (c).)

19 **FIRST CAUSE FOR REVOCATION**

20 **(Failure To Disclose)**

21 9. Respondents are no longer suitable for licensure, and their gambling licenses are
22 subject to revocation in that:

- 23 a. Respondents failed to report, reveal, or otherwise disclose to the Bureau in a
24 timely manner that they were under investigation for federal Bank Secrecy Act
25 violations. The Financial Crimes Enforcement Network (FinCEN) sent notice of
26 its investigation by letter, dated August 4, 2015, and stated that its investigation
27 “includes, but is not limited to, violations occurring from August 2009 through
28

1 the present.” Respondents did not disclose that they were under investigation
2 until November 18, 2016 – more than one year after FinCEN’s notice.

- 3 b. Respondents failed to report, reveal, or otherwise disclose to the Bureau in a
4 timely manner that the Internal Revenue Service (IRS) gave notice of
5 weaknesses or deficiencies related to, or violations of, the Bank Secrecy Act.
6 The IRS gave written notice on May 17, 2016, and identified acts and omissions
7 from October 1, 2014, through March 31, 2015. Respondents did not disclose
8 that they were under investigation until November 18, 2016 – approximately six
9 months after the IRS’s notice.

10 (Bus. & Prof. Code, §§ 19823, 19857, subds. (a) & (b), 19859, subds. (a) & (b), 19866, 19920,
11 19922, 19924, 19944; Cal. Code Regs., tit. 4, § 12568, subd. (c)(3) & (4); Cal. Code Regs., tit.
12 11, § 2052, subd. (c).)

13 **SECOND CAUSE FOR REVOCATION**

14 **(Providing False or Misleading Information)**

15 10. Respondents are no longer suitable for licensure, and their gambling licenses are
16 subject to mandatory revocation. Respondents provided false and misleading information to the
17 Bureau. Despite FinCEN’s notice in August 2015, the IRS’s notice in May 2016, and the
18 Corporation’s responding to the IRS in August 2016, Respondents did not advise the Bureau of
19 the investigation until the Corporation sent a letter dated November 18, 2016. Respondents’
20 letter to the Bureau was false or misleading in that it stated: “These violations [found by
21 FinCEN] occurred primarily from 2009 to 2011 and were the subject of previous action by the
22 Bureau of Gambling Control.”

23 (Bus. & Prof. Code, §§ 19823, 19857, subds. (a) & (b), 19859, subds. (a) & (b), 19866; Cal.
24 Code Regs., tit. 4, § 12568, subd. (c)(3) & (4); Cal. Code Regs., tit. 11, § 2052, subd. (c).)

25 **FACTORS IN AGGRAVATION OF PENALTY**

26 **(Cal. Code Regs., tit. 4, § 12556)**

27 11. The Corporation has been disciplined before. On May 9, 2011, the Commission
28 issued a Stipulation and Order (Stipulated Settlement) in *In the Matter of the Accusation*

1 *Against: Artichoke Joe's, etc.*, CGCC Case No. 2011-03-04-2. The Stipulated Settlement
2 resolved an accusation against the Corporation. The allegations in that accusation arose out of
3 loan-sharking activities, illegal drug sales, and the failure to meet Bank Secrecy Act reporting
4 requirements. In the Stipulated Settlement, the Corporation did not contest illegal loans alleged
5 in the accusation and that a serious problem of loan-sharking existed at the Casino. The alleged
6 violations of the Act for illegal drug sales and the failure to meet Bank Secrecy Act reporting
7 requirements were withdrawn as part of the settlement. In the Stipulated Settlement, the Bureau
8 agreed, among other things, not to recommend revocation of the Corporation's or its owner
9 licensees' licenses based upon allegations made, or that could have been made, in the
10 accusation.

11 12. In settling the prior accusation pursuant to the Stipulated Settlement, the
12 Corporation agreed to pay a total fine of \$550,000 with \$275,000 being stayed for two years. If
13 no proceeding was brought during the two-year stay period, the stayed portion of the fine was
14 canceled. The Corporation also agreed to pay \$300,000 for the costs of investigation and the
15 accusation's prosecution.

16 13. The conduct alleged in this Accusation is similar to acts and omissions alleged in
17 the previous proceeding.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing, the Commission issue a decision:

21 1. Revoking California State Gambling License Number GEOW-002367, issued to
22 respondent Artichoke Joe's;

23 2. Revoking California State Gambling License Number GEOW-003112, issued to
24 respondent Sally Ann Johnson Family Trust;

25 3. Revoking California State Gambling License Number GEOW-002390, issued to
26 respondent Helen Sammut Living Trust;

27 4. Revoking California State Gambling License Number GEOW-002388, issued to
28 respondent Michael J. Sammut AJ Stock Trust;

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- 5. Revoking California State Gambling License Numbers GEOW-003370 and GEOW-002371, issued to respondent Karen A. Sammut;
- 6. Revoking California State Gambling License Number GEOW-003368, issued to respondent Dennis J. Sammut AJ Stock Trust;
- 7. Revoking California State Gambling License Number GEOW-002368, issued to respondent Sally Johnson;
- 8. Revoking California State Gambling License Number GEOW-003369, issued to respondent Dennis J. Sammut.
- 9. Revoking California State Gambling License Number GEOW-002370, issued to respondent Helen M. Sammut
- 10. Imposing fines or monetary penalties against Respondents, jointly and severally, according to proof and to the maximum extent allowed by law;
- 11. Awarding Complainant the costs of investigation and costs of bringing this Accusation before the Commission, pursuant to Business and Professions Code section 19930, subdivisions (d) and (f), in a sum according to proof; and
- 12. Taking such other and further action as the Commission may deem appropriate.

Dated: November 15, 2017



NATHAN DAVALLE, Director
Bureau of Gambling Control
California Department of Justice

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

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

5 The department^[3] . . . shall have all of the following responsibilities:

6 * * *

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

9 * * *

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

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

16 (a) Upon the filing with the Commission of an accusation by the
17 Bureau recommending revocation, suspension, or other discipline of a
18 holder of a license, registration, permit, finding of suitability, or approval,
19 the Commission shall proceed under Chapter 5 (commencing with section
20 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

21 * * *

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

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

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

* * *

(4) Impose any condition, limitation, order, or directive . . . ;

³ “Department” refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).) The Bureau is an entity within the Department of Justice.

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 (g) Public trust that permissible gambling will not endanger public
4 health, safety, or welfare requires that comprehensive measures be
5 enacted to ensure that gambling is free from criminal and corruptive
elements, that is conducted honestly and competitively

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

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

13 * * *

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

21 8. Business and Professions Code section 19857 provides:

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

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

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

5 9. Business and Professions Code section 19859 provides, in part:

6 The commission shall deny a license to any applicant who is
7 disqualified for any of the following reasons:

8 (a) Failure of the applicant to clearly establish eligibility and
9 qualification in accordance with this chapter.

10 (b) Failure of the applicant to provide information,
11 documentation, and assurances required by the Chief, or failure of
12 the applicant to reveal any fact material to qualification, or the
13 supplying of information that is untrue or misleading as to a material
14 fact pertaining to the qualification criteria.

15 10. Business and Professions Code section 19866 provides:

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

21 11. Business and Professions Code section 19920 provides:

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

12. 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.

13. Business and Professions Code section 19924 provides:

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

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14. Business and Professions Code section 19944 provides, in part:

Any person who willfully resists, prevents, impedes, or interferes with the department or the commission or any of their agents or employees in the performance of duties pursuant to this chapter is guilty of a misdemeanor

15. Business and Professions Code section 19971 provides:

This act is an exercise of the police power of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes.

16. California Code of Regulations, title 4, section 12315 provides:

(a) A gambling enterprise is required to file a report of each transaction involving currency in excess of \$10,000, in accordance with section 14162(b) of the Penal Code.

(b) A gambling enterprise, regardless of gross revenue, shall make and keep on file at the gambling establishment a report of each transaction in currency, in accordance with sections 5313 and 5314 of Title 31 of the United States Code and with Chapter X of Title 31 of the Code of Federal Regulations, and any successor provisions. These reports shall be available for inspection at any time as requested by the Bureau.

(c) Nothing in this section shall be deemed to waive or to suspend the requirement that a gambling enterprise make and keep a record and file a report of any transaction otherwise required by the Bureau or the Commission.

17. California Code of Regulations, title 4, section 12554, subdivision (c), provides:

The Administrative Law Judge and Commission shall base their decisions on written findings of fact, including findings concerning any relevant aggravating or mitigating factors. Findings of fact shall be based upon a preponderance of the evidence standard. The “preponderance of the evidence standard” is such evidence as when considered and compared with that opposed to it, has more convincing force, and produces a belief in the mind of the fact-finder that what is sought to be proved is more likely true than not true.

1 18. California Code of Regulations, title 4, section 12568, subdivision (c), provides, in
2 part:

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

7 * * *

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

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

13 19. California Code of Regulations, title 11, section 2052, subdivision (c), provides:

14 Within five days of any owner licensee or key employee obtaining
15 knowledge or notice of any possible violation of the Act or these
16 regulations, a written report shall be submitted to the Bureau, which
17 details the nature of the violation, the identities of those persons
involved in the violation, and describes what actions have been taken to
address the violation.

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