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BEFORE THE

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CALIFORNIA GAMBLING CONTROL COMMISSION

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In the Matter of the Accusation
Against:

Case No. DGC # 02001

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OAH No. _____

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SUSAN J. BARROWS
GOLD RUSH GAMING PARLOR AND SALOON
106 East Main Street
Grass Valley, CA 95945

ACCUSATION

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License Number 020001

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Robert E. Lytle, Jr., Complainant herein, alleges as follows:

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PARTIES

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1. Robert E. Lytle, Jr. ("Complainant") is the Director of the Division of Gambling
 22 Control ("Division") within the California Department of Justice and as such brings this
 23 Accusation solely in his official capacity. This Accusation is brought against Susan Barrows
 24 ("Respondent") as Sole Proprietor of the Gold Rush Gaming Parlor and Saloon.

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2. On or about June 23, 2005, the Division in anticipation of the Respondent's
 26 renewal application conducted a preliminary site visit at the Gold Rush Gaming Parlor and found
 27 three violations, including:

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- 1 a. Having an employee working in the capacity of a key employee
2 without and before submitting a key employee application or
3 receiving a key employee license;
- 3 b. failing to submit a timely renewal application for a State Gambling
4 License late after numerous requests from the Commission and
5 Division; and
- 5 c. violating state law and the city ordinance prohibiting the loaning of
6 money to a person playing in a card game.

7 4. On or about August 18, 2005, the Respondent submitted a renewal application for
8 a State Gambling License to the California Gambling Control Commission ("Commission").
9 The renewal application was approximately 110 days late; it was due to the Commission on or
10 before April 30, 2005.

11 5. On or about August 18, 2005, the Commission issued and served Respondent with
12 a CLOSURE ORDER for failing to timely renew her State Gambling License as required by
13 Business and Professions Code section 19876.

14 6. On or about September 26, 2005, at its regularly scheduled public meeting and in
15 the presence of the Respondent, the Commission asked the Division to continue to investigate the
16 Respondent's gambling operations for possible violations of the Gambling Control Act, local
17 ordinances and other applicable laws.

18 7. On or about October 1, 2005, the Commission issued a temporary State Gambling
19 License Number 020001 to the Respondent. The Commission, pursuant to Business and
20 Professions Code section 19876, conditioned Respondent's temporary license as follows:

- 21 a. The Licensee or a licensed key employee must be present during all times
22 that games are in process.
- 23 b. The Licensee will submit all applications for State Gambling License, Key
24 Employee License, and work permits in a timely manner, i.e., by required
25 due dates.
- 25 c. The applicant will submit Bi-Annual Reports by the required due dates.

26 The Respondent's Temporary License expired on January 31, 2006.

27 8. Per the Commission's request, the Division continued its investigation of
28 Respondent's gaming operations. On or about January 9, 2006, the Division sent a letter to the

1 Commission outlining the results of the Division's follow-up investigation as of that date. The
2 Division continued its investigation after January 9, 2006.

3 9. On or about January 20, 2006, the Commission sent a letter to Respondent
4 advising her that the Commission staff's recommendation was to not renew and revoke her
5 temporary license.

6 10. On or about January 25, 2006, Mr. Tabor, Respondent's counsel, in response to
7 the Commission's January 20, 2006 letter, requested a hearing pursuant to Business and
8 Professions Code section 19870 or 19825.

9 11. On or about January 26, 2006, at its public meeting in the presence of
10 Respondent's counsel, the Commission considered and denied Respondent's renewal application.
11 Per the Respondent's request, the Commission referred this matter to an evidentiary hearing on
12 the denial of the renewal application. Also, the Division at that meeting said that it intended to
13 proceed with this accusation. Respondent's counsel was given a copy of the Division's January
14 9, 2006, letter. In the interim, and pending the evidentiary hearing on this accusation and the
15 revocation and denial of the renewal application, the Commission allowed the Respondent to
16 operate because Respondent's counsel voluntarily agreed to the following ten conditions on
17 Respondent's behalf:

- 18 a. The Licensee or a licensed key employee must be present
19 during all times that games are in process.
- 20 b. The Licensee will submit all applications for State Gambling
21 License, Key Employee License, and work permits in a timely
22 manner, i.e., by required due dates.
- 23 c. The applicant will submit Bi-Annual Reports by the required due
24 dates.
- 25 d. Cease and desist extension of credit, which is prohibited
26 by local ordinance. (This was a violation of the Grass
27 Valley Local Ordinance section 5.10.090, loaning of
28 money prohibited and Business and Professions Code
section 19923, violation of a local ordinance.)
- e. Maintain sufficient funding to cover Bad Beat Jackpots and
High Hand Bonuses as required and have those records
available to the Division upon request.

- 1 f. Comply with ongoing requests from the Division with regard
- 2 to accounting records, enabling the Division to complete a
- 3 financial audit.
- 4 g. Owner to refrain from gambling in the establishment unless
- 5 she has a key employee on duty to supervise staff and make
- 6 discretionary decisions as they arise.
- 7 h. Comply with all accounting, labor, and taxation requirements
- 8 as required and requested by State and Federal agencies.
- 9 Those agencies include but should not be limited to,
- 10 Employment Development Department, Internal Revenue
- 11 Service, Franchise Tax Board and California Department of
- 12 Insurance.
- 13 i. Cooperate with local law enforcement agencies on any
- 14 criminal investigations associated with the operation of the
- 15 gambling establishment.
- 16 j. Owner and employees are not to use house funds to gamble in
- 17 the establishment.

12 12. The Commission's permission for Respondent to continue to operate pending the
 13 evidentiary hearing on the Commission's denial of Respondent's renewal application was
 14 without prejudice to the Division's filing of this accusation requesting suspension and/or fines
 15 based on Respondent's violations found during the Division's investigation.

16 **JURISDICTION**

17 13. This Accusation is brought before the Commission pursuant to the authority of the
 18 following Business and Professions Code ("Code") sections:

19 a. Code section 19826, in relevant part, states:

20 The division shall have all of the following responsibilities:

21 * * * *

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

26 b. Code section 19824, in relevant part, states:

27 The commission shall have all powers
 28 necessary and proper to enable it fully and
 effectually to carry out the policies and purposes of
 this chapter, including, without limitation, the
 power to do all of the following:

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(b) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter or regulations adopted pursuant to this chapter, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved.

* * * *

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

c. Code section 19825 states:

The commission may require that any matter that the commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial, suspension, or revocation of a license, permit, or a finding of suitability, be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

STATUTORY PROVISIONS

The applicable statutory provisions include, but are not limited to, the following:

14. Code section 19923 provides:

No owner licensee shall operate a gambling enterprise in violation of any governing local ordinance.

15. Grass Valley Gaming Ordinance 5.10.090, subdivision A provides:

No licensee, employee or agent of the licensee or any other person in charge or control of any cardroom shall:

A. Loan any money, check or anything of value to any person who is playing, or intends to play, any card game.

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16. Code section 19912, subdivision (a)(1) provides:

(a)(1) A person shall not be employed as a gambling enterprise employee, or serve as an independent agent, except as provided in paragraph (2), unless he or she is the holder of one of the following:

(A) A valid work permit issued in accordance with the applicable ordinance or regulations of the county, city, or city and county in which his or her duties are performed.

(B) A work permit issued by the commission pursuant to regulations adopted by the commission for the issuance and renewal of work permits. A work permit issued by the commission shall be valid for two years.

17. Code section 19912, subdivision (b) provides:

(b) A work permit shall not be issued by any city, county, or city and county to any person who would be disqualified from holding a state gambling license for the reasons specified in subdivisions (a) to (g), inclusive, of Section 19859.

18. Code section 19859, subdivision (c) provides:

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

* * * *

(c) Conviction of a felony, including a conviction by a federal court or a court in another state for a crime that would constitute a felony if committed in California.

19. Code section 19854, subdivision (a) provides:

Every key employee shall apply for and obtain a Key Employee license.

20. Code section 19855 provides in pertinent part that:

Except as otherwise provided by statute or regulation, every person who, by statute or regulation, is required to hold a state license shall obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required.

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21. California Code of Regulations, title 11, section 2050, subdivision (a) provides:

A gambling establishment shall have on the premises, at all times that the establishment is open to the public, an owner licensee or a key employee who shall have the responsibility and authority to ensure immediate compliance with the Act and these regulations.

22. Code section 19850 provides:

Every person who, either as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, deals, operates, carries on, conducts, maintains, or exposes for play any controlled game in this state, or who receives, directly or indirectly, any compensation or reward, or any percentage or share of the money or 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, as specified in this chapter. In any criminal prosecution for violation of this section, the punishment shall be as provided in Section 337j of the Penal Code.

23. Penal Code section 330 provides:

Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tax, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of those prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

24. Code section 19876, subdivision (b) provides:

(b) An application for renewal of a gambling license shall be filed by the owner licensee with the commission no later than 120 calendar days prior to the expiration of the current license. The commission shall act upon any application for renewal prior to the date of expiration of the current license. Upon renewal of any owner license, the commission shall issue an appropriate renewal certificate or validating device or sticker.

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25. Code section 19876, subdivision (e) provides:

(e) If an owner licensee fails to renew the gambling license as provided in this chapter, the commission may order the immediate closure of the premises and a cessation of all gambling activity therein until the license is renewed.

26. Code section 19877 provides:

The failure of an owner licensee to file an application for renewal before the date specified in this chapter may be deemed a surrender of the license. A license has not been renewed within the meaning of this section until all required renewal fees have been paid.

VIOLATIONS

**FIRST CAUSE FOR REVOCATION AND/OR
SUSPENSION OF TEMPORARY LICENSE**

(Improper Extension of Credit)

27. Respondent, as part of her business operation, routinely extended credit to at least thirty-eight (38) Gold Rush Gaming Parlor patrons in violation of local ordinances and state laws.

**SECOND CAUSE FOR REVOCATION
AND/OR SUSPENSION OF TEMPORARY LICENSE**

(No Key Employee)

28. Respondent, as part of her business operations, routinely, and on at least three (3) occasions, failed to have a key employee on duty at all times, in violation of state law.

**THIRD CAUSE FOR REVOCATION AND/OR
SUSPENSION OF TEMPORARY LICENSE**

(Employee Without Valid Work Permit)

29. Respondent, as part of her business operations, routinely and on at least forty-eight (48) occasions, allowed employees without valid work permits to work at the Gold Rush Gaming Parlor, in violation of state law.

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**EIGHTH CAUSE FOR REVOCATION AND/OR
SUSPENSION OF TEMPORARY LICENSE**

(Failure to Cooperate with Division Audit)

33. Respondent on several occasions, in violation of the terms of her license and state law and regulation failed to cooperate with and avoided and evaded, the Division's efforts to audit her gaming operations.

**EIGHTH CAUSE FOR REVOCATION AND
TERMINATION OF TEMPORARY LICENSE**

(Failure to File a Timely Renewal Application)

34. Respondent, despite requests and actual notice from the Division, failed to file a timely renewal application and, consequently, surrendered her gaming license and any rights that she may have had under her prior license.

PRAYER

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

- 1. Revoking the Temporary Gambling License, State Gambling License Number 020001, and any extensions thereof, issued to Respondent.
- 2. Revoking any other conditional renewals or temporary licenses associated with, Gambling License Number 020001 issued to Respondent;
- 3. Denying Respondent's application for renewal of the temporary license and/or State Gambling License Number 020001;
- 4. Suspending State Gambling License Number 020001 for at least seven (7) days for each violation cited above;
- 5. Requiring the Respondent to pay an appropriate fine for each violation cited above;

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6. Requiring the Respondent to pay the investigative and related costs of the Division with respect to this Accusation; and

7. Taking such and further action as the Commission deems necessary and proper.

Dated: April 17, 2006



ROBERT E. LYTLE, JR., Director
Division of Gambling Control
California Department of Justice

Complainant