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8 **BEFORE THE**
9 **CALIFORNIA GAMBLING CONTROL COMMISSION**

11 In the Matter of the Accusation Against:	DGC # SA04-00090-01
12 DON JUAN CLUB AND CASINO	OAH No. _____
13 2785 Don Juan Drive	
13 Rancho Cordova, California	<u>ACCUSATION</u>
14 Juan Guzman, Owner	
15 Owner's License Number 990039	
16 Respondent.	

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18 Complainant Robert E. Lytle, Jr., brings this Accusation before the California Gambling
19 Control Commission ("Commission") and against Respondent Juan Guzman ("Respondent" or
20 "Guzman") solely in his official capacity as the Director of the California Department of Justice,
21 Division of Gambling Control ("Division"), and alleges as follows:

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JURISDICTION

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2 1. This Accusation is brought before the Commission pursuant to the Business and
3 Professions Code sections restated in paragraphs 2 through 6 below:

4 2. Business and Professions Code, section 19823, provides as follows:

5 (a) The responsibilities of the commission include, without limitation, all of
6 the following:

7 (1) Assuring that licenses, approvals, and permits are not issued
8 to, or held by, unqualified or disqualified persons, or by persons
whose operations are conducted in a manner that is inimical to the
public health, safety, or welfare.

9 (2) Assuring that there is no material involvement, directly or
10 indirectly, with a licensed gambling operation, or the ownership or
11 management thereof, by unqualified or disqualified persons, or by
persons whose operations are conducted in a manner that is
inimical to the public health, safety, or welfare.

12 3. Business and Professions Code, section 19824, provides as follows:

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

15 * * *

16 (b) For any cause deemed reasonable by the commission, deny any
17 application for a license, permit, or approval provided for in this chapter or
18 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.

19 (c) Approve or disapprove transactions, events, and processes as provided in
20 this chapter.

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

23 * * *

24 (h) Issue subpoenas to compel attendance of witnesses and production of
25 documents and other material things at a meeting or hearing of the
commission or its committees, including advisory committees.

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1 4. Business and Professions Code, section 19825, provides as follows:

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

5 5. Business and Professions Code, section 19826, provides as follows:

6 The division shall have all of the following responsibilities:

7 * * *

8 (b) To monitor the conduct of all licensees and other persons having a
9 material involvement, directly or indirectly, with a gambling operation or its
10 holding company, for the purpose of ensuring that licenses are not issued or
11 held by, and that there is no direct or indirect material involvement with, a
12 gambling operation or holding company by ineligible, unqualified,
13 disqualified, or unsuitable persons, or persons whose operations are
14 conducted in a manner that is inimical to the public health, safety, or welfare.

12 (c) To investigate suspected violations of this chapter or laws of this state
13 relating to gambling, including any activity prohibited by Chapter 9
14 (commencing with Section 319) or Chapter 10 (commencing with Section
15 330) of Title 9 of Part 1 of the Penal Code.

15 (d) To investigate complaints that are lodged against licensees, or other
16 persons associated with a gambling operation, by members of the public.

16 (e) To initiate, where appropriate, disciplinary actions as provided in this
17 chapter. In connection with any disciplinary action, the division may seek
18 restriction, limitation, suspension, or revocation of any license or approval,
19 or the imposition of any fine upon any person licensed or approved.

19 6. Business and Professions Code, section 19930, provides as follows:

20 (b) If, after any investigation, the division is satisfied that a license, permit,
21 finding of suitability, or approval should be suspended or revoked, it shall
22 file an accusation with the commission in accordance with Chapter 5
23 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
24 Government Code.

23 (c) In addition to any action that the commission may take against a license,
24 permit, finding of suitability, or approval, the commission may also require
25 the payment of fines or penalties. However, no fine imposed shall exceed
26 twenty thousand dollars (\$20,000) for each separate violation of any
27 provision of this chapter or any regulation adopted thereunder.

26 (d) In any case in which the administrative law judge recommends that the
27 commission revoke, suspend, or deny a license, the administrative law judge
28 may, upon presentation of suitable proof, order the licensee or applicant for a
license to pay the division the reasonable costs of the investigation and
prosecution of the case.

1 (1) The costs assessed pursuant to this subdivision shall be fixed
2 by the administrative law judge and may not be increased by the
3 commission. When the commission does not adopt a proposed
4 decision and remands the case to the administrative law judge, the
5 administrative law judge may not increase the amount of any costs
6 assessed in the proposed decision.

(2) The division may enforce the order for payment in the superior
court in the county in which the administrative hearing was held.
The right of enforcement shall be in addition to any other rights
that the division may have as to any licensee directed to pay costs.

(3) In any judicial action for the recovery of costs, proof of the
commission's decision shall be conclusive proof of the validity of
the order of payment and the terms for payment.

(e) Notwithstanding any other provision of law, all costs recovered under
this section shall be deposited in the fines and penalties account, a special
account described in subdivision (a) of Section 19950.

(f) For purposes of this section, "costs" include costs incurred for any of the
following:

(1) The investigation of the case by the division.

(2) The preparation and prosecution of the case by the Office of the
Attorney General.

RESPONDENT

7. Respondent Juan Guzman, owns as a sole proprietor the gambling enterprise known as
Don Juan's Cardroom and Casino ("Cardroom"), located at 2785 Don Juan Avenue, in Rancho
Cordova, California. Respondent is the holder of Owner's Gambling License No. 990039, issued
by the Commission, and valid until December 1, 2006. As a result of the resolution of a separate
accusation, the revocation of this license is stayed pending the completion of probation.

SUMMARY OF CAUSES FOR DISCIPLINARY ACTION

8. During the period October 2003, through July 2004, Respondent allowed control over
the Cardroom to be assumed by Point Walker, Inc., Lucky Derby Casino, and their principals,
Kermit Schayltz ("Schayltz") and Leo Chu ("Chu"). These entities and individuals were not
licensed to operate the Cardroom. During this period, Schayltz and Chu, and their agents,
violated numerous provisions of the California Gambling Control Act ("GCA"), the regulations
adopted pursuant to it, and the Rancho Cordova City Code, in their operation of the Cardroom.
Respondent is responsible for each of these violations as owner of the Cardroom.

1 9. The conduct of Point-Walker, Inc., Lucky Derby Casino, Schayltz, and Chu is the
2 subject of a separately-filed accusation in Division of Gambling Control Case No. 03-00130-01.

3 10. Examples of violations described by Division investigators are described in paragraphs
4 11 through 15 below.

5 11. During the period of Schayltz and Chu's operation of the Cardroom, Respondent, as
6 owner and operator of the Cardroom, failed to maintain his presence during all hours of operation
7 as required by the Gambling Control Act and the regulations of the Commission.

8 12. During the period of Schayltz and Chu's operation of the Cardroom, Respondent
9 allowed the Cardroom and its gambling enterprise to be operated, controlled, and administered
10 by individuals who were not licensed or permitted to do so in violation of the Gambling Control
11 Act and the ordinances of the City of Rancho Cordova.

12 13. During the period of Schayltz and Chu's operation of the Cardroom, Respondent
13 allowed Cardroom employees to play controlled games with Cardroom funds, in violation of the
14 Gambling Control Act.

15 14. During the period of Schayltz and Chu's operation of the Cardroom, Respondent
16 allowed Cardroom employees to extend credit to Cardroom patrons, in violation of the Gambling
17 Control Act and the ordinances of the City of Rancho Cordova.

18 15. During the period of Schayltz and Chu's operation of the Cardroom, Respondent
19 failed to ensure that signs were posted at the Cardroom describing applicable table fees and
20 betting limits, as required by the Gambling Control Act and the City of Rancho Cordova
21 ordinances.

22 **STATUTORY PROVISIONS APPLICABLE TO RESPONDENT**

23 16. Business and Professions Code, section 19850, provides as follows:

24 Every person who, either as owner, lessee, or employee, whether for
25 hire or not, either solely or in conjunction with others, deals, operates, carries
26 on, conducts, maintains, or exposes for play any controlled game in this state,
27 or who receives, directly or indirectly, any compensation or reward, or any
28 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

1 criminal prosecution for violation of this section, the punishment shall be as
2 provided in Section 337j of the Penal Code.

3 17. Business and Professions Code, section 19854, provides as follows:

4 (a) Every key employee shall apply for and obtain a key employee license.

5 (b) Licenses issued to key employees shall be for specified positions only,
6 and those positions shall be enumerated in the endorsement described in
7 subdivision (b) of Section 19851.

8 (c) No person may be issued a key employee license unless the person would
9 qualify for a state gambling license.

10 18. Business and Professions Code, section 19855, provides as follows:

11 Except as otherwise provided by statute or regulation, every person
12 who, by statute or regulation, is required to hold a state license shall obtain
13 the license prior to engaging in the activity or occupying the position with
14 respect to which the license is required. Every person who, by order of the
15 commission, is required to apply for a gambling license or a finding of
16 suitability shall file the application within 30 calendar days after receipt of
17 the order.

18 19. Business and Professions Code, section 19912, provides as follows:

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

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

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

29 20. Business and Professions Code, section 19922, provides as follows:

30 No owner licensee shall operate a gambling enterprise in violation of
31 any provision of this chapter or any regulation adopted pursuant to this
32 chapter.

33 21. Business and Professions Code section 19923 provides as follows:

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 22. Complainant incorporates paragraphs 2 through 21, as though fully restated here.

3 23. Business and Professions Code section 19805, subdivision (t), defines "Key Employee"
4 as follows:

5 "Key employee" means any natural person employed in the operation of
6 a gambling enterprise in a supervisory capacity or empowered to make
7 discretionary decisions that regulate gambling operations, including, without
8 limitation, pit bosses, shift bosses, credit executives, cashier operations
9 supervisors, gambling operation managers and assistant managers, managers
or supervisors of security employees, or any other natural person designated
as a key employee by the division for reasons consistent with the policies of
this chapter.

10 24. Business and Professions Code section 19805, subdivision (u), defines "Key Employee
11 License" as follows:

12 "Key employee license" means a state license authorizing the holder to
13 be associated with a gambling enterprise as a key employee.

14 25. Business and Professions Code section 19854, subdivision (a) requires that every Key
15 Employee apply for and obtain a Key Employee License, and subdivision (b) provides that
16 licenses issued to Key Employees shall be for specified positions only, and that those positions
17 shall be enumerated in an endorsement to the license of the owner of the gambling enterprise.

18 26. Respondent is subject to disciplinary action pursuant to Business and Professions Code
19 sections 19823, subdivision (a), 19824, subdivision (d), 19826, subdivision (e), and 19930,
20 subdivision (b), and regulations adopted pursuant to these provisions, for violation of Business
21 and Professions Code, section 19922, because during the period October 2003 through July 2004,
22 Respondent failed to ensure that during all hours of operation there was present in the Cardroom
23 a person with responsibility and authority to ensure immediate compliance with the GCA.

24 **SECOND CAUSE FOR DISCIPLINE**

25 27. Complainant incorporates paragraphs 1 through 21, as though fully restated here.

26 28. Respondent is subject to disciplinary action pursuant to Business and Professions Code
27 sections 19823, subdivision (a), 19824, subdivision (d), 19826, subdivision (e), and 19930,
28

1 subdivision (b), and regulations adopted pursuant to these provisions, for violation of Business
2 and Professions Code, section 19922, because during the period October 2003 through July 2004,
3 Respondent permitted unlicensed individuals to act as key employees of the Cardroom. These
4 individuals included Kermit Schuytzt, Donald Shane, and Leslie Boyer.

5 **THIRD CAUSE FOR DISCIPLINE**

6 29. Complainant incorporates paragraphs 1 through 21, as though fully restated here.

7 30. At all times relevant from and after May 6, 2004, City of Rancho Cordova Municipal
8 Code, Chapter 4.22, section 4.22.105 provided, in relevant part, as follows:

9 The wagering limits for each table shall be clearly displayed at that table
10 so that those who are playing at that table may be aware of the wagering
11 limit. Notice of all the provisions and restrictions provided in this section
12 shall be posted in a conspicuous place in the cardroom.

13 31. Respondent is subject to disciplinary action pursuant to Business and Professions Code
14 sections 19823, subd. (a), 19824, subd. (d), 19826, subd. (e), and 19930, subd. (b), for violation
15 of Business and Professions Code section 19923, in that Respondent, during the period from
16 October 2003 through July 2004, and more particularly on or about June 29, 2004, failed to
17 display the wagering limits for each table at that table, and thereby violated City of Rancho
18 Cordova Municipal Code, Chapter 4.22, section 4.22.105.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 32. Complainant incorporates paragraphs 1 through 21, as though fully restated here.

21 33. At all times relevant from and after May 6, 2004, City of Rancho Cordova Municipal
22 Code, Chapter 4.22, section 4.22.115 provided, in relevant part, as follows:

23 No Cardroom shall extend credit to any patron in order for the
24 patron to participate in a card game.

25 34. Respondent is subject to disciplinary action pursuant to Business and Professions Code
26 sections 19823, subd. (a), 19824, subd. (d), 19826, subd. (e), and 19930, subd. (b), for violation
27 of Business and Professions Code section 19923, in that Respondent, during the period October
28 2003 through July 2004, and more particularly on or about June 29, 2004, extended credit to one

1 Sylvia Hartog, a patron of the Cardroom, for the purpose of that patron's participation in a card
2 game being conducted in that gambling establishment, and thereby violated City of Rancho
3 Cordova Municipal Code, Chapter 4.22, section 4.22.115.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 35. Complainant incorporates paragraphs 1 through 21, as though fully restated here.

6 36. At all times relevant hereto, Section 2070 of Title 11 of the California Code of
7 Regulations was a regulation adopted pursuant to the Gambling Control Act and provided as
8 follows:

9 It shall be an unsuitable method of operation for a gambling establishment to:

10 (a) Offer for play any game that is prohibited or made unlawful by any statute, local
11 ordinance, regulation, or final judgment by a competent court of law.

12 * * *

13 (d) Fail to give ample notice of the fee collection rates applicable to each table to the
14 patrons of the gambling establishment.

15 37. Penal Code section 330 provides in relevant part as follows:

16 Every person who deals, plays, or carries on, opens, or causes to be opened,
17 or who conducts, either as owner or employee, whether for hire or not, ... any
18 banking or percentage game played with cards, dice, or any device, for money,
19 checks, credit, or other representative of value, ... is guilty of a misdemeanor, and
20 shall be punishable by a fine not less than one hundred dollars(\$100) nor more
21 than one thousand dollars (\$1,000), or by imprisonment in the county jail not
22 exceeding six months, or by both the fine and imprisonment.

23 38. Respondent is subject to disciplinary action pursuant to Business and Professions Code
24 sections 19823, subd. (a), 19824, subd. (d), 19826, subd. (e), and 19930, subd. (b), for violation
25 of Business and Professions Code section 19922, in conjunction with 11 CCR section 2070,
26 subdivision (a), in that during the period October 2003 through July 2004, and more particularly
27 on or about June 29, 2004, respondent permitted one or more of the persons employed at the
28 Cardroom to participate as a player in a controlled game at the Cardroom using money, checks or
credit of the Cardroom as wagers made by that person or persons in the controlled game, by
virtue whereof the Respondent dealt, played, carried on, opened and conducted a banking game
in violation of Penal Code section 330.

SIXTH CAUSE FOR DISCIPLINE

39. Complainant incorporates paragraphs 1 through 21, as though fully restated here.

40. Respondent is subject to disciplinary action pursuant to Business and Professions Code sections 19823, subd. (a), 19824, subd. (d), 19826, subd. (e), and 19930, subd. (b), for violation of Business and Professions Code section 19922, in conjunction with 11 CCR section 2070, subdivision (d), in that during the period October 2003 through July 2004, and more particularly on or about June 29, 2004, Respondent failed to post within the licensed premises of the Cardroom the fee collection rates applicable to any table at which a controlled game was played, and thereby failed to give ample notice of the fee collection rates applicable to each table to the patrons of the gambling establishment.

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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 or suspending the owner's license of Respondent Juan Guzman, and imposing a fine on him in the amount of \$20,000.00 upon each violation found to constitute cause for disciplinary action;
2. Awarding Complainant the costs of investigation and costs of bringing this Accusation before the Commission, in an amount according to proof; and
3. Taking such other and further action as may be appropriate.

Dated: November 20, 2006



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

Complainant