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8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**
12

13
14 **In the Matter of the Accusations Against:**

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

17 **5526 El Cajon Blvd.**
18 **San Diego, CA 92115**

19 **LICENSE NUMBER GEKE-000950**

20 **and**

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

23 **License Number GEKE-001243**

24 **Respondents.**
25

BGC Case No. HQ2011-0001AC

OAH No.

ACCUSATION

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Martin Horan IV (Complainant) brings this Accusation solely in his official
4 capacity as the Acting Chief of the California Department of Justice, Bureau of Gambling
5 Control (Bureau).

6 2. At all times relevant herein Stanley Penn (Respondent Stanley) was licensed to
7 operate Lucky Lady Card Room as its sole proprietor, California State Gambling License
8 Number GEGE-000950. Said license will expire on November 30, 2011, unless renewed.

9 3. At all times relevant herein Michael Penn (Respondent Michael) was licensed as a
10 key employee at Lucky Lady Card Room, California State Gambling License Number GEKE-
11 001243. Said license will expire on November 30, 2011, unless renewed.

12 **JURISDICTION**

13 4. Business and Professions Code, section 19811 provides, in part:

14 (b) Jurisdiction, including jurisdiction over operation and
15 concentration, and supervision over gambling establishments in this
16 state and over all persons or things having to do with the operations of
gambling establishments is vested in the commission.

17 5. Business and Professions Code, section 19824 provides, in part:

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

21 * * *

22 (b) For any cause deemed reasonable by the commission, . . .
23 limit, condition, or restrict any license, permit, or approval, or impose
24 any fine upon any person licensed or approved. The commission may
25 condition, restrict, discipline, or take action against the license of an
individual owner endorsed on the license certificate of the gambling
26 enterprise whether or not the commission takes action against the
license of the gambling enterprise.

27 * * *

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

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

5 The department^[1] shall have all of the following responsibilities:

6 * * *

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

12 7. Business and Professions Code, section 19930 provides, in part:

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

19 COST RECOVERY

20 8. Business and Professions Code, section 19930 provides, in part:

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

26 * * *

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

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

27 ¹ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
28 (h).)

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

SPECIFIC STATUTORY AND REGULATORY PROVISIONS

9. Business and Professions Code, section 19823 provides, in part:

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

(1) Assuring that licenses . . . are not . . . held by . . . persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

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

10. Business and Professions Code section 19920 provides:

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

11. Business and Professions Code section 19923 provides:

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

12. Business and Professions Code section 19924 provides, in part:

Each owner licensee shall maintain security controls over the gambling premises and all operations therein related to gambling.

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13. California Code of Regulations, title 4, section 12386, provides, in part:

(a) The policies and procedures for all Tiers² shall meet or exceed the following standards for the cage:

(1) The licensee shall maintain within the gambling establishment at least one separate and secure area at a fixed location that is accessible to the public, and that is designated as the cage. The cage shall be located, designed constructed and operated to provide appropriate security and accountability for funds.

(2) The licensee shall designate at least one employee to process monetary transactions through the cage. All employees designated to process monetary transactions through the cage shall be . . . responsible for any or all of the following:

(A) Custody of the cage . . . consistent with the operation of a cage . . .

* * *

(G) Ensuring the proper . . . safeguarding of funds and chips.

(3) Routine access and entry into the cage area shall be limited to on-duty cage personnel-designated [sic] pursuant to paragraph (2) of this subsection. Other employees of the gambling establishment who hold a valid gambling license or work permit may be granted access to the cage area for the purpose of performing their duties.

* * *

(e) Licensees shall establish and implement the applicable standards for cage functions specified in subsections (a) through and including (d) no later than April 1, 2010.

14. California Code of Regulations, title 4, section 12386, provides, in part:

(a) A license for an individual . . . granted by the Commission, other than a work permit, . . . shall be subject to a minimum discipline of suspension for one day of normal business operation and a maximum discipline of revocation, . . . if the Commission finds the holder has:

² A "Tier" designation (i.e., Tier I, Tier II, Tier III, Tier IV and Tier V) refers to the number of tables that a licensee is authorized to operate in the gambling establishment. See California Code of Regulations, title 4, section 12380, subdivision (d).

1 * * *

2 (6) Engaged in any conduct on the premises of the
3 gambling establishment or in connection with controlled
4 gambling that is inimical to the health, welfare, or safety of the
5 general public.

6 15. San Diego Municipal Code, chapter 3, article 3, division 39, section 39.3921
7 provides, in part:

8 Each licensee shall be responsible and liable for its patrons' safety
9 and security in and around the cardroom.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Failure to Establish and Implement Cage Standards–Respondent Stanley)**

12 16. Respondent Stanley's license is subject to discipline pursuant to Business and
13 Professions Code sections 19920 and 19924, and California Code of Regulations, title 4, section
14 12386, subdivision (e), in that by April 1, 2010, Respondent Stanley had failed to establish and
15 implement applicable standards for the functioning of the cage at the Lucky Lady Card Room.
16 Such standards were not developed and implemented until after approximately \$36,832.00 was
17 stolen from the cage at the Lucky Lady Card Room on April 17, 2010.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unsuitable Cage Operation–Respondent Stanley)**

20 17. Respondent Stanley's license is subject to discipline pursuant to Business and
21 Professions Code sections 19920 and 19924, and California Code of Regulations, title 4, section
22 12386, in that the cage at Lucky Lady Card Room was operated and/or maintained in an
23 unsuitable manner. On or about April 17, 2010, at approximately 3:00 p.m., the cage in the
24 gambling establishment was left unattended and unlocked, with unsecured cash visible from
25 outside of the cage area.

26 **THIRD CAUSE FOR DISCIPLINE**

27 **(Unsafe Operation–Respondent Stanley)**

28 18. Respondent Stanley's license is subject to discipline pursuant to Business and
Professions Code sections 19823, subdivisions (a)(1) and (2), and 19920, and California Code

1 of Regulations, title 4, section 12568, subdivision (a)(6), in that the Lucky Lady Card Room
2 was operated in a manner that put the health, safety and/or general welfare of the patrons and/or
3 employees of the gambling establishment at risk. On or about April 17, 2010, at approximately
4 3:00 p.m., the cage in the Lucky Lady Card Room was left unattended and unlocked, with
5 unsecured cash visible from outside of the cage area. As a result, a theft occurred. The cage
6 was entered by an unauthorized person and approximately \$36,832.00 was stolen. At the time
7 of the theft there were about 50 employees and patrons inside the gambling establishment.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Violation of San Diego Municipal Code—Respondent Stanley)**

10 19. Respondent Stanley's license is subject to discipline pursuant to Business and
11 Professions Code sections 19920 and 19923, in that the Lucky Lady Card Room was operated
12 in a manner that put the safety of the patrons of the gambling establishment at risk in violation
13 of San Diego Municipal Code, chapter 3, article 3, division 39, section 39.3921. On or about
14 April 17, 2010, at approximately 3:00 p.m., the cage in the Lucky Lady Card Room was left
15 unattended and unlocked, with unsecured cash visible from outside of the cage area. As a
16 result, a theft occurred. The cage was entered by an unauthorized person and about \$36,832.00
17 was stolen. At that time of the robbery there were patrons inside the gambling establishment.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Unsafe Operation—Respondent Michael)**

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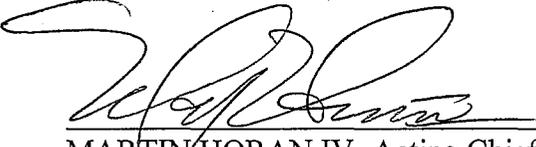
1 cage was entered by an unauthorized person and approximately \$36,832.00 was stolen. At the
2 time of the theft there were about 50 employees and patrons inside the gambling establishment.

3 **PRAYER**

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

- 6 1. Revoking or suspending California State Gambling License Number GEGE-
7 000950, issued to Stanley Penn, sole proprietor, Lucky Lady Card Room;
- 8 2. Fining Stanley Penn in an amount of no less than \$80,000.00;
- 9 3. Revoking or suspending California State Gambling License Number GEKE-
10 001243, issued to Michael Penn, key employee;
- 11 4. Fining Michael Penn in an amount of no less than \$20,000.00;
- 12 5. Awarding Complainant the costs of investigation and costs of bringing this
13 Accusation before the Commission, pursuant to Business and Professions Code section 19930,
14 subdivisions (d) and (f), in a sum according to proof, payable by Stanley Penn and Michael
15 Penn, jointly and severally; and
- 16 6. Taking such other and further action as the Commission may deem appropriate.

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18 Dated: November 7, 2011

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20 MARTIN HORAN IV, Acting Chief
21 Bureau of Gambling Control
22 California Department of Justice
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