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

13 In the Matter of the Accusation Against:

14 S & S GAMING, INC.
15 dba CLUB CARIBE CASINO
7617 Atlantic Avenue
16 Cudahy, CA 90201

17 Gambling License No. GEGE-001041

18 Respondent.

BGC Case No. BGC-LA-2008-00039

OAH No. _____

ACCUSATION

19
20
21 Complainant alleges:

22 **PARTIES**

23 1. Jacob A. Appelsmith ("Complainant") brings this Accusation solely in his official
24 capacity as the Chief of the Bureau of Gambling Control, California Department of Justice
25 ("Bureau").

26 2. S & S Gaming, Inc. ("Respondent") owns, as a corporate entity, the gambling
27 establishment presently known and doing business as Club Caribe Casino, located at 7617
28 Atlantic Avenue, Cudahy, California 90201. Respondent is the holder of Gambling License

1 Number GEGE-001041, issued by the California Gambling Control Commission
2 (“Commission”). Respondent’s license was in full force and effect at all times relevant to the
3 charges brought herein, with the following condition imposed thereon:

4 The California Gambling Control Commission reserves the right to
5 require S&S Gaming Incorporated’s lender (Game Source, LLC) to
6 submit an application as a financial interest holder, if further information
7 reviewed at a later date indicates that it would be in the best interest of the
8 public safety and welfare.

9 The license will expire on June 30, 2009, unless renewed.

10 JURISDICTION

11 3. This Accusation is brought before the Commission pursuant to the following statutes.

12 All section references are to the Business and Professions Code unless otherwise stated.

13 4. Section 19811 provides, in pertinent part:

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

18 5. Section 19823 provides as follows:

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

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

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

6. Section 19824 provides, in pertinent part:

The commission shall have all powers 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:

.....

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 7. Section 12554 of Title 4 of the California Code of Regulations provides, in pertinent
5 part:

6 (a) Upon the filing with the Commission of an accusation by the
7 Bureau recommending revocation, suspension, or other discipline of a
8 holder of a license, registration, permit, finding of suitability, or approval,
9 the Commission shall proceed under Chapter 5 (commencing with section
10 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

11 8. Section 19826 provides, in pertinent part:

12 The department [of Justice (see § 19805, subd. (h))] shall have all of
13 the following responsibilities:

14

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

20 9. Section 19930 provides, in pertinent part:

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

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

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

.....

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

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

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

6 STATUTORY AND REGULATORY PROVISIONS

7 10. Section 19805 provides as follows:

8 As used in this chapter [Gambling Control Act], the following
9 definitions shall apply:

10 (n) "Gambling establishment," "establishment," or "licensed
11 premises" . . . means one or more rooms where any controlled gambling
12 or activity directly related thereto occurs.

13

14 (w) "Key employee" means any natural person employed in the
15 operation of a gambling enterprise in a supervisory capacity or
16 empowered to make discretionary decisions that regulate gambling
17 operations, including, without limitation, pit bosses, shift bosses, credit
18 executives, cashier operations supervisors, gambling operation managers
19 and assistant managers, managers or supervisors or security employees,
20 or any other natural person designated as a key employee by the
21 department for reasons consistent with the policies of this chapter.

22 (x) "Key employee license" means a state license authorizing the
23 holder to be employed as a key employee.

24

25 (aj) "Work permit" means any card, certificate, or permit issued by the
26 commission, or by a county, city, or city and county, whether
27 denominated as a work permit, registration card, or otherwise, authorizing
28 the holder to be employed as a gambling enterprise employee or to serve
as an independent agent. A document issued by any governmental
authority for any employment other than gambling is not a valid work
permit for the purposes of this chapter.

11. Section 19850 provides as follows:

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.

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12. Section 19854 provides, in pertinent part:

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

13. Section 19855 provides, in pertinent part:

[E]very 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.

14. Section 19883 provides, in pertinent part:

(a) To the extent required by this chapter, officers and directors, shareholders, lenders, holders of evidence of indebtedness, underwriters, agents, or employees of a corporate owner licensee shall be licensed individually. The corporation shall require these persons to apply for a gambling license, and shall notify the department of every change of corporate officers, directors, or key employees within 10 business days after the change. An officer, director, or key employee who is required to apply for a license shall apply for the license within 30 calendar days after he or she becomes an officer, director, or key employee.

....

(e) If any person, other than an officer, director, or shareholder, who is required to apply for a gambling license fails to do so, the failure may be deemed to be a failure of the corporate owner licensee to require the application.

15. Section 19912 provides, in pertinent part:

(a) (1) A person shall not be employed as a gambling enterprise employee, or serve as an independent agent . . . , 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.

16. Section 19984 provides, in pertinent part:

(a) Any agreement, contract, or arrangement between a gambling establishment and a third-party provider of proposition player services shall be approved in advance by the department, and in no event shall a gambling establishment or the house have any interest, whether direct or indirect, in funds wagered, lost, or won.

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17. Section 19920 provides as follows:

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.

18. Section 19922 provides as follows:

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

19. Section 19923 provides as follows:

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

20. Section 2053 of Title 11 of the California Code of Regulations provides as follows:

(a) The Bureau may require a gambling establishment to present satisfactory evidence that there is adequate financing available to protect the public's health, safety and welfare.

(b) A gambling establishment shall maintain a separate, specifically designated, insured account with a licensed financial institution in an amount not less than the total value of the chips in use by the gambling establishment. The funds from that account may only be used to redeem the chips of that gambling establishment. That account may not be used as collateral, or encumbered or hypothecated in any fashion. Alternatively, the Bureau may allow the gambling establishment to provide some other form of security acceptable to the Bureau, in lieu of maintaining the required account.

(c) A gambling establishment shall maintain a separate, specifically designated, insured account with a licensed financial institution in an amount not less than the total amount of the monies that patrons of that gambling establishment have on deposit with the gambling establishment. The funds from that account may only be used to return to the patrons the balance of monies on deposit with the gambling establishment. That account may not be used as collateral, or encumbered or hypothecated in any fashion. Alternatively, the Bureau may allow the gambling establishment to provide some other form of security acceptable to the Bureau, in lieu of maintaining the required account.

1 21. Section 12200 of Title 4 of the California Code of Regulations provides, in pertinent
2 part:

3 (b) As used in this chapter:

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5 (28) "Third-party proposition player services" or "proposition
6 player services" means services provided in and to the house under
7 any written, oral, or implied agreement with the house, which services
8 include play as a participant in any controlled game that has a rotating
9 player-dealer position as permitted by Penal Code section 330.11.

10 22. Section 12200.9 of Title 4 of the California Code of Regulations provides, in
11 pertinent part:

12 (a)(1) Proposition player services shall not be provided except
13 pursuant to a written proposition player contract approved in advance by
14 the Bureau. Provision of proposition player services by any person
15 subject to registration or licensing under this chapter, or engagement of
16 proposition player services by the holder of a state gambling license,
17 without a contract as required by this section is a violation of this section.

18 23. Section 12200.3 of Title 4 of the California Code of Regulations provides, in
19 pertinent part:

20 (g) Registrations, licenses, and badges are specific to the primary
21 owner. Third party proposition player services cannot be provided
22 without first applying for and obtaining a registration, license or badge.

23 24. Section 12554 of Title 4 of the California Code of Regulations provides, in pertinent
24 part:

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

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

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

(3) Order the licensing authority of a city, county, or city and
county to revoke a work permit, pursuant to Business and Professions
Code section 19914, subdivision (a);

1 (4) Impose any condition, limitation, order, or directive (including
2 but not limited to a directive to divest an interest in a business entity
pursuant to Business and Professions Code, section 19879);

3 (5) Impose any fine or monetary penalty consistent with Business
4 and Professions Code sections 19930, subdivision (c) ;

5 (6) Stay, in whole or in part, the imposition of a revocation or
6 suspension against the holder of a license, registration, work permit,
7 finding of suitability, or approval, or

8 (7) Order the holder to pay a monetary penalty in lieu of all or a
9 portion of a suspension. Within the guidelines of Business and
10 Professions Code sections 19930, subdivision (c) :

11 (A) If the respondent is an owner licensee of a gambling
12 establishment, the monetary penalty shall be equivalent of fifty percent
13 of the average daily gross gaming revenue, but not less than \$300, for
14 the number of days for which the suspension is stayed.

15 25. Section 12566 of Title 4 of the California Code of Regulations provides, in pertinent
16 part:

17 (a) If the Commission finds that a gambling establishment is out of
18 compliance with any mandatory duty specified in or imposed by the Act
19 or any Commission or Bureau regulation, or any local ordinance which
20 directly affects the public health, safety, or welfare, which is not
21 otherwise listed in these disciplinary guidelines, pursuant to Business and
22 Professions Code section 19922, the penalty shall be one day of
23 suspension, stayed upon the payment of a penalty, within the guidelines
24 of Business and Professions Code, sections 19930, subdivision (c) . . . as
25 follows:

26 (1) If the establishment has five tables or less and has annual gross
27 gaming revenue up to and including \$10,000, the penalty shall be
28 between \$50 and \$100, based upon the factors in mitigation and
aggravation.

(2) If the establishment has ten tables or less or has annual gross
gaming revenue over \$10,000, up to and including \$200,000, the
penalty shall be between \$100 and \$2000, based upon the factors in
mitigation and aggravation.

(3) If the establishment has annual gross gaming revenue over
\$200,000, the penalty shall be between \$250 and \$5,000, based upon
the factors in mitigation and aggravation.

(b) A state gambling license for a gambling establishment granted by
the Commission shall be subject to a minimum discipline of suspension
for one day of normal business operation and a maximum discipline of
suspension for 30 days of normal business operation, which may be
stayed on terms and conditions and upon a monetary penalty of twenty-

1 five percent of the average daily gross gaming revenue, not more than
2 \$10,000, but not less than \$300, if the Commission finds that the
3 establishment has violated any of the following but has not been
4 disciplined by the Commission for such a violation previously:

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6 (2) Failed to maintain adequate financing for chips in use or for
7 player banks,

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9 (6) Violated Business and Professions Code, section 19912 (failure
10 to have valid work permit).

11 26. Section 12556 of Title 4 of the California Code of Regulations provides, in pertinent
12 part:

13 Factors in mitigation may reduce a minimum penalty of suspension
14 listed in this chapter, either in number of days suspended and/or in the
15 proposal to stay a suspension for a period of probation and the payment of
16 any monetary penalty. Factors in aggravation may increase a penalty or
17 be taken into consideration in determining whether or not to allow a
18 suspension to be stayed upon payment of a monetary penalty.

19 27. City of Cudahy Municipal Code section 6-32, subsection 6-32.18, states, in pertinent
20 part:

21 a. *Definitions.* For the purposes of this subsection, the words and
22 phrases set forth below have the following meanings:

23

24 3. *Employee work permit* shall mean a permit issued by the City to
25 any natural person in accordance with the requirements of this
26 subsection.

27 4. *Gambling establishment employee* shall mean any natural person
28 employed in the operation of a gambling establishment where gaming
activity occurs including, without limitation, management personnel,
.. or any other natural person whose employment duties require or
authorize access to a game room.

b. *Application.* The licensee must require each prospective gambling
establishment employee to obtain an employee work permits before that
employee commences work.

.....

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Inadequate Financing)**

3 31. Respondent's license is subject to disciplinary action in that, from approximately
4 August 26, 2008 to the present, Respondent's financing was inadequate to cover liabilities for the
5 chips in use, the player account and the jackpot fund. An adequate financing review performed
6 on or about August 26, 2008 showed that Respondent's financing was underfunded in relation to
7 the outstanding chips in use, the player account and the jackpot fund in the approximate amount
8 of \$469,000.00. An adequate financing review performed on or about February 3, 2009 showed
9 that Respondent's financing was underfunded in relation to the outstanding chips in use, the
10 player account and the jackpot fund in the approximate amount of \$580,250.00. Respondent's
11 actions are in violation of provisions requiring gambling establishments to maintain adequate
12 financing and to operate in a manner suitable to protect the public's health, safety and welfare,
13 pursuant to Business and Professions Code sections 19920 and 19922, and section 2053,
14 subdivisions (a), (b) and (c), of Title 11 of the California Code of Regulations.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Unlawful Agreement for Provision of Proposition Players Services)**

17 32. Respondent's license is subject to disciplinary action in that, in approximately
18 October, 2008, Respondent had an agreement with, and was engaging the services of Leanne Ung
19 to participate in the play of controlled games with a rotating player-dealer position, without
20 having entered into a written contract with Ms. Ung, the terms of which had been approved in
21 advance by the Bureau. Furthermore, at the time Ms. Ung was providing such services, she did
22 not hold a license or registration permitting her to provide proposition player services to a
23 gambling establishment. Respondent's actions are in violation of provisions requiring that
24 agreements for the provision of third-party proposition player services be in writing and approved
25 in advance by the Bureau and forbidding gambling establishments from engaging the services of
26 unlicensed third-party providers of proposition player services, pursuant to Business and
27 Professions Code sections 19984, subdivision (a), 19920, 19922, and sections 12200.9,
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1 subdivision (a)(1), and 12200.3, subdivision (g), of Title 11 of the California Code of
2 Regulations.

3 **OTHER MATTERS**

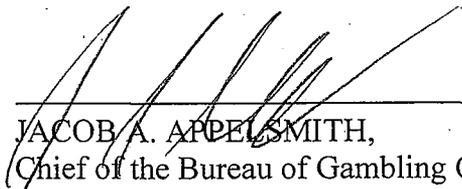
4 33. On May 11, 2009, the Bureau issued an emergency order restricting Respondent's
5 license pursuant to Business and Professions Code section 19931, subdivision (a). The
6 emergency order was filed with the Commission on or about May 11, 2009, and is effective until
7 further order of the Commission or final disposition of any proceeding conducted pursuant to
8 Business and Professions Code section 19931, subdivision (d).

9 **PRAYER**

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

- 12 1. Revoking or suspending the gambling establishment license issued to Respondent,
13 S & S Gaming, Inc., dba Club Caribe Casino, and imposing a monetary fine and/or penalty upon
14 Respondent, for each violation found to constitute cause for disciplinary action;
- 15 2. Awarding Complainant, pursuant to Business and Professions Code section 19930,
16 subdivisions (d) and (f), the reasonable costs of investigation and the costs of preparation and
17 prosecution of the case before the Commission, in a sum according to proof; and,
- 18 3. Taking such other and further action as the Commission may deem appropriate.

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20 Dated: May 13, 2009

21 
22 JACOB A. APPEL SMITH,
23 Chief of the Bureau of Gambling Control
24 California Department of Justice
25 Complainant
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