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

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

15 **LUCKY CHANCES, INC., dba**
16 **LUCKY CHANCES CASINO**
17 **1700 Hillside Boulevard**
Colma, CA 94044

BGC Case No. SA08-00023

OAH No. 2011-03-0417

18 **LICENSE NUMBER GEGE-001108**

FIRST AMENDED ACCUSATION

19
20
21 Martin Horan IV, Complainant herein, alleges as follows:

22 **PARTIES**

23 1. Martin Horan IV (Complainant) brings this First Amended Accusation solely in his
24 official capacity as the Acting Chief of the California Department of Justice, Bureau of
25 Gambling Control (Bureau). Prior to August 24, 2007, the Bureau was constituted and known
26 as the Division of Gambling Control (Division).

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

6 * * *

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

10 7. Section 19826 provides, in part:

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

12 * * *

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

15 * * *

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

21 8. Section 19930 provides, in part:

22 * * *

23 (b) If, after any investigation, the department is satisfied that a
24 license, permit, finding of suitability, or approval should be suspended or
25 revoked, it shall file an accusation with the commission in accordance with
26 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of title
27 2 of the Government Code.

28 (c) In addition to any action that the commission may take against a
license, permit, finding of suitability, or approval, the commission may
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

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

1 law judge may, upon presentation of suitable proof, order the licensee or
2 applicant for a license to pay the department the reasonable costs of the
investigation and prosecution of the case.

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

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

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

16 * * *

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

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

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

22 9. California Code of Regulations, title 4, section 12554 provides, in part:

23 (a) Upon the filing with the Commission of an accusation by the
24 Bureau recommending revocation, suspension, or other discipline of a
25 holder of a license, registration, permit, finding of suitability, or approval,
26 the Commission shall proceed under Chapter 5 (commencing with section
27 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

28 **FACTUAL BASIS FOR DISCIPLINARY ACTION**

10. At all times relevant herein, Respondent contracted with Bay Area Players Group,
Inc. (Bay Area), a licensed third party provider of proposition player services, for third-party
proposition player services at the Lucky Chances Casino. The contract between Respondent

1 and Bay Area, and regulations duly promulgated by the Commission, require all players
2 employed by Bay Area for the purpose of providing third party proposition player services to be
3 registered and/or licensed by the Commission, and to wear badges issued by the Commission
4 whenever present in a gambling establishment. Between the dates of January 1, 2007, and
5 February 19, 2008, Respondent permitted Bay Area employees who were not registered and/or
6 licensed by the Commission, and who were displaying fraudulent badges not issued by the
7 Commission, to provide third party proposition player services at the Lucky Chances Casino on
8 no less than 1,349 separate occasions. At all times between the dates of January 1, 2007, and
9 February 19, 2008, Respondent knew, or reasonably should have known, that the badges
10 displayed by the employees referred to herein had not been issued by the Commission, and that
11 the Bay Area employees were not registered and/or licensed by the Commission.

12 11. Third party proposition player services may only be provided pursuant to a written
13 contract approved in advance by the Bureau. The contract must set forth the specific names of
14 each Bureau-approved gaming activity for which third party proposition player services may be
15 provided. On at least six occasions between the dates of December 11, 2007, and February 19,
16 2008, Respondent permitted Bay Area employees to provide third party proposition player
17 services for the game of "Pure 21.5 Blackjack," a game for which Bay Area was not authorized
18 to provide third party proposition player services under its approved written contract with
19 Respondent. At no time relevant herein did Respondent amend its contract with Bay Area to
20 include the game of "Pure 21.5 Blackjack," or notify the Commission and the Bureau in writing
21 of the parties' execution of an amendment to the contract to include the game of "Pure 21.5
22 Blackjack."

23 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

24 **APPLICABLE TO RESPONDENT**

25 12. The causes for discipline alleged in this accusation are based, without limitation,
26 upon the following statutes and regulations. All references are to the Business and Professions
27 Code unless otherwise indicated.

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13. Section 19805 provides, in part:

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

* * *

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

14. 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.

15. 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.

16. Section 19984 provides, in part:

Notwithstanding any other provision of law, a licensed gambling enterprise may contract with a third party for the purpose of providing proposition player services at a gambling establishment, subject to the following conditions:

(a) Any agreement, contract, or arrangement between a gambling enterprise and a third-party provider of proposition player services shall be approved in advance by the department

17. California Code of Regulations, title 4, section 12200, subdivision (b)(28) provides, in part:

"Third-party proposition player services" or "proposition player services" means services provided in and to the house under any written,

1 oral, or implied agreement with the house, which services include play as a
2 participant in any controlled game that has a rotating player-dealer position
3 as permitted by Penal Code section 330.11

4 18. California Code of Regulations, title 4, section 12200.3 provides, in part:

5 (a) All individuals licensed or registered as primary owners, owners,
6 supervisors, players, or other employees of the primary owner shall wear in a
7 prominently visible location a numbered badge issued by the Commission
8 when present in a gambling establishment during the provision of proposition
9 player services under the proposition player contract that covers the licensee or
10 registrant.

11 * * *

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

15 19. California Code of Regulations, title 4, section 12200.9 provides, in part:

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

22 20. California Code of Regulations, title 4, section 12200.7 provides, in part:

23 * * *

24 (b) Each proposition player contract shall specifically require all of
25 the following to be separately set forth at the beginning of the contract . . .

26 * * *

27 (3) The specific name of the Bureau-approved gaming activities for
28 which proposition player services may be provided.

* * *

(8) That proposition player services shall be provided in the
gambling establishment only in compliance with the laws and regulations
pertaining to controlled gambling.

1 (9) That proposition player services may be provided only by
2 authorized players with current registration or licensing under this chapter.

3 * * *

4 (22) [T]hat any addition to or modification of the contract, including
5 any supplementary written or oral agreements, must be approved in
6 advance by the Bureau pursuant to Section 12200.10B . . . before the
7 addition or modification takes effect.

8 21. California Code of Regulations, title 4, section 12200.10B provides, in part:

9 (b) [I]f any amendment is made to a proposition player contract term
10 specified in paragraphs (3) . . . of subsection (b) of Section 12200.7, both
11 parties to the contract shall notify the Commission and Bureau in writing
12 of the amendment within ten (10) days of the execution thereof by the
13 parties to the contract.

14 **FIRST CAUSE FOR DISCIPLINE**

15 22. Complainant incorporates by this reference each and every allegation contained in
16 paragraphs 1 through 21 above, as though set forth here in full.

17 23. Between the dates of January 1, 2007, and February 19, 2008, Respondent
18 permitted unregistered and/or unlicensed employees of Bay Area, wearing fraudulent badges
19 not issued by the Commission, to provide third-party proposition player services, on no less
20 than 1,349 separate occasions, in violation of California Code of Regulations, title 4, section
21 12200.3, subdivisions (a) and (g), each occasion of which constitutes a violation of California
22 Code of Regulations, title 4, section 12200.9, subdivision (a)(1) for failure to comply with
23 California Code of Regulations, title 4, section 12200.7, subdivisions (b)(8) and (b)(9); each
24 separate instance of the foregoing constituting a violation of Business and Professions Code
25 sections 19920 and 19922 by Respondent.

26 24. At all times when engaged in the conduct described in paragraph 22 above,
27 Respondent knew, or reasonably should have known, that Bay Area's employees were
28 unregistered and/or unlicensed and that the badges displayed by those players were fraudulent
and had not been issued by the Commission.

1 **SECOND CAUSE FOR DISCIPLINE**

2 25. Complainant incorporates by this reference each and every allegation contained in
3 paragraphs 1 through 24 above, as though set forth here in full.

4 26. Between the dates of December 11, 2007, and February 19, 2008, Respondent
5 permitted Bay Area employees to provide third-party proposition player services, on no less
6 than six occasions, for the game of "Pure 21.5 Blackjack," in violation of California Code of
7 Regulations, title 4, section 12200.7, subdivision (b)(3), each occasion of which constitutes a
8 violation of California Code of Regulations, title 4, section 12200.9, subdivision (a)(1) for
9 failure to comply with California Code of Regulations, title 4, section 12200.7, subdivision
10 (b)(8); each separate instance of the foregoing constituting a violation of Business and
11 Professions Code sections 19920 and 19922 by Respondent.

12 **THIRD CAUSE FOR DISCIPLINE**

13 27. Complainant incorporates by this reference each and every allegation contained in
14 paragraphs 1 through 26 above, as though set forth here in full.

15 28. Between the dates of May 17, 2010, and July 14, 2010, the Lucky Chances Casino
16 received proposition player services from Wager Master, Inc., without a Bureau-approved
17 contract, in violation of Business and Professions Code section 19984, and California Code of
18 Regulations, title IV, section 12200.9, subdivision (a)(1).

19 **PRAYER**

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

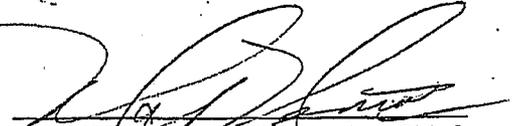
22 1. Imposing a penalty on Respondent Lucky Chances, Inc., dba Lucky Chances
23 Casino under the foregoing applicable statutes and regulations that may include a license
24 suspension or revocation, and/or a monetary fine.

25 2. Awarding Complainant the costs of investigation and costs of bringing this
26 Accusation before the Commission, pursuant to Business and Professions Code section 19930,
27 subdivisions (d) and (f), in a sum of no less than \$27,703.00, according to proof, and
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3. Taking such other and further action as the Commission may deem appropriate.

Dated: June 16, 2011



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