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1 KAMALA D. HARRIS  
Attorney General of California  
2 SARA J. DRAKE  
Senior Assistant Attorney General  
3 RONALD L. DIEDRICH  
Deputy Attorney General  
4 State Bar Number 95146  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-1043  
Fax: (916) 327-2319  
7 E-mail: Ronald.Diedrich@doj.ca.gov  
*Attorneys for the Bureau of Gambling Control*

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

12  
13  
14 In the Matter of the Accusation Against:

15 ROBERTO PENA

16 [REDACTED]

17 LICENSE NUMBER GEKE-001720

18 Respondent.

BGC Case No. HQ2015-00001AL

OAH No.: \_\_\_\_\_

19  
20 **ACCUSATION**

21  
22 Complainant alleges as follows:

23 **PARTIES**

24 1. Wayne J. Quint, Jr. (Complainant) brings this Accusation solely in his official  
25 capacity as the Chief of the California Department of Justice, Bureau of Gambling Control  
26 (Bureau).

27 2. On October 10, 2013, the California Gambling Control Commission (Commission)  
28 issued a key employee license, license number GEKE-001720, to Roberto Pena (Respondent).

1 Respondent was a cage supervisor at the Commerce Casino, in Commerce, California.  
2 Respondent's key employee license will expire on October 31, 2015, unless renewed.

3 **FIRST CAUSE OF ACTION FOR REVOCATION**

4 (Disqualified for Licensure – Felony Conviction)

5 3. Respondent's key employee license is subject to revocation in that, on or about  
6 August 12, 2014, Respondent was convicted of violating Penal Code section 487, subdivision (a),  
7 grand theft, a felony, in the case of *People v. Roberto Pena* (Super. Ct. Los Angeles County,  
8 2014, No. BA424207).

9 (Bus. & Prof. Code, §§ 19854, subd. (b), & 19859, subd. (c); Cal. Code. Regs., tit. 4, §§  
10 12346, subds. (a)(1), (b)(3)(B) & (c), 12554, subd. (d) & 12568, subds. (c)(1) & (4).)

11 **SECOND CAUSE OF ACTION FOR REVOCATION**

12 (Unqualified for Licensure - Theft)

13 4. Respondent's license is subject to revocation in that, from approximately January  
14 2012, through about April 2014, Respondent stole and/or embezzled about \$200,000 from an  
15 ATM at the Commerce Casino, where he was employed. This conduct gave rise to the criminal  
16 conviction noted in paragraph 3 above and incorporated herein by reference.

17 (Bus. & Prof. Code, §§ 19854 & 19857, subds. (a) & (b); Cal. Code. Regs., tit. 4, §§ 12346,  
18 subds. (a)(1) & (c), 12554, subd. (d) & 12568, subd. (c)(3).)

19 **THIRD CAUSE OF ACTION FOR REVOCATION**

20 (Unqualified for Licensure - Criminal Activity While Acting as Key Employee)

21 5. Respondent's license is subject to revocation in that, from approximately January  
22 2012, through about April 2014, Respondent stole and/or embezzled about \$200,000 from an  
23 ATM at the Commerce Casino, while on duty as a key employee of that gambling establishment.  
24 This conduct gave rise to the criminal conviction noted in paragraph 3 above and incorporated  
25 herein by reference.

26 (Bus. & Prof. Code, §§ 19854 & 19857, subds. (a) & (b); Cal. Code. Regs., tit. 4, §§ 12346,  
27 subds. (a)(1) & (c), 12554, subd. (d) & 12568, subd. (c)(3).)

1 **JURISDICTION**

2 6. Business and Professions Code, section 19823 provides:

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

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

14 (b) For the purposes of this section, "unqualified person" means a  
15 person who is found to be unqualified pursuant to the criteria set forth in  
16 Section 19857, and "disqualified person" means a person who is found to  
17 be disqualified pursuant to the criteria set forth in Section 19859.

18 7. Business and Professions Code, section 19824 provides, in part:

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

22 \* \* \*

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

26 8. Business and Professions Code, section 19826 provides, in part:

27 The department<sup>[1]</sup> . . . shall have all of the following responsibilities:

28 \* \* \*

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

\* \* \*

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

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

5 9. California Code of Regulations, title 4, section 12554, subdivisions (a) and (d)  
6 provide, in part:

7 (a) Upon the filing with the Commission of an accusation by the Bureau  
8 recommending revocation, suspension, or other discipline of a holder of a  
9 license, registration, permit, finding of suitability, or approval, 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 \* \* \*

12 (d) Upon a finding of a violation of the Act<sup>2</sup>, any regulations adopted  
13 pursuant thereto, any law related to gambling or gambling establishments,  
14 violation of a previously imposed disciplinary or license condition, or laws  
whose violation is materially related to suitability for license, registration,  
15 permit, or approval, the Commission may do any one or more of the  
following:

16 (1) Revoke the license, registration, or permit.

17 \* \* \*

18 (5) Impose any fine or monetary penalty consistent with  
19 Business and Professions Code sections 19930, subdivision (c), and  
19943, subdivision (b).

20 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

21 10. Business and Professions Code, section 19854 provides, in part:

22 (b) No person may be issued a key employee license unless the  
23 person would qualify for a state gambling license.

24 11. Business and Professions Code, section 19857 provides, in part:

25 No gambling license shall be issued unless, based on all the  
26 information and documents submitted, the commission is satisfied that  
the applicant is all of the following:

27 \_\_\_\_\_  
28 <sup>2</sup> "Act" refers to the Gambling Control Act. (Cal. Code Regs., tit. 4, § 12002, subd. (m).)

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(a) A person of good character, honesty and integrity.

(b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

12. Business and Professions Code, section 19859 provides, in part:

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.

13. California Code of Regulations, title 4, section 12346, provides, in part:

(a) An application for a gambling license shall be denied by the Commission if any of the following apply:

(1) The Commission finds that the applicant is ineligible, unqualified, disqualified, or unsuitable pursuant to the criteria set forth in the Act or other applicable law or that the granting the license would be inimical to the public health, safety, welfare, or would undermine the public trust that gambling operations are free from criminal or dishonest elements.

\* \* \*

(b) An application for a gambling license may be denied if:

\* \* \*

(3) The Commission finds that the applicant's past behavior calls into question the applicant's qualification requirements and considerations outlines in Business and Professions Code section 19856. Examples of past behavior that may be considered include, but are not limited to:

\* \* \*

(B) A conviction involving gambling or gambling related activities:

1 \* \* \*

2 (c) The grounds for denial set forth in this section apply in addition  
3 to any grounds prescribed by statute or any grounds that would support  
4 revocation under chapter 10 of these regulations.

5 14. California Code of Regulations, title 4, section 12568, provides, in part:

6 (c) A state gambling license, finding of suitability, or approval  
7 granted by the Commission, other than a work permit, and an owner  
8 license for a gambling establishment if the owner licensee has  
9 committed a separate violation from any violations committed by the  
10 gambling establishment shall be subject to revocation by the  
11 Commission on any of the following grounds:

12 (1) If the Commission finds the holder to have been convicted  
13 of a felony or a crime of moral turpitude that would disqualify the  
14 holder from licensure.

15 \* \* \*

16 (3) If the Commission finds the holder no longer meets any  
17 criterion for eligibility, qualification, suitability or continued  
18 operation, including those set forth in Business and Professions code  
19 sections 19857, 19858, or 19880, as applicable, or

20 (4) If the Commission finds the holder currently meets the  
21 criteria of mandatory denial of an application set forth in Business  
22 and Professions code section 19859 or 19860.

23 **COST RECOVERY**

24 15. Business and Professions Code, section 19930 provides, in part:

25 (b) If, after any investigation, the department is satisfied that a license,  
26 permit, finding of suitability, or approval should be suspended or revoked,  
27 it shall file an accusation with the commission in accordance with Chapter  
28 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of  
the Government Code.

\* \* \*

(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.

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

(2) The department 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 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.

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

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

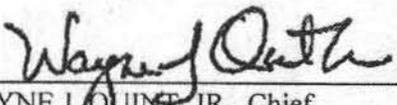
(2) The preparation and prosecution of the case by the Office of the Attorney General.

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 California State Gambling Establishment Key Employee, License Number GEKE-001720, issued to Roberto Pena;
2. Awarding Complainant the costs of investigation and costs of bringing this Accusation before the Commission, pursuant to Business and Professions Code section 19930, subdivisions (d) and (f), in a sum according to proof; and
3. Taking such other and further action as the Commission may deem appropriate.

Dated: July 21, 2015

  
 \_\_\_\_\_  
 WAYNE J. QUINT, JR., Chief  
 Bureau of Gambling Control  
 California Department of Justice