

1 BILL LOCKYER
Attorney General of the State of California
2 ROBERT L. MUKAI
Senior Assistant Attorney General
3 SARA J. DRAKE
Supervising Deputy Attorney General
4 CHRISTINE M. MURPHY, State Bar No. 183835
Deputy Attorney General
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 327-6750
7 Fax: (916) 322-5609

8

9

BEFORE THE

10

CALIFORNIA GAMBLING CONTROL COMMISSION

11

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

Case No. DGC # 990039

13

OAH No. _____

14

**JUAN JOSE GUZMAN
DON JUAN CLUB AND CASINO
2785 Don Juan Drive
Rancho Cordova, CA 95670**

**ACCUSATION AND
STATEMENT OF ISSUES**

15

16

17

License Number 990039

18

19

Robert E. Lytle, Jr., Complainant herein, alleges as follows:

20

PARTIES

21

1. Robert E. Lytle, Jr. ("Complainant") is the Director of the Division of Gambling
22 Control ("Division") within the California Department of Justice and as such brings this
23 Accusation solely in his official capacity.

24

2. On or about December 1, 2002, the California Gambling Control Commission
25 ("Commission") issued State Gambling License Number 990039 to the Don Juan Club &
26 Casino, Juan Jose Guzman, Sole Proprietor ("Respondent"). The Commission, pursuant to
27 Business and Professions Code section 19876, conditioned Respondent's license renewals as
28 follows:

1 a. On or about November 24, 2003, State Gambling License Number 990039 was
2 renewed by the Commission subject to Respondent's compliance with the following
3 conditions:

4 1) Maintain accounting books and records that include the
5 recording, dating and posting of all financial transactions of the
6 gambling establishment; and

7 2) Submit financial reports, detailing all transactions in regards to
8 gaming activities at the gambling establishment, to the
9 Commission on a quarterly basis.

10 b. On or about December 1, 2004, State Gambling License Number
11 990039 was renewed by the Commission subject to the following terms and
12 conditions:

13 1) Maintain accounting books and records that include the
14 recording, dating, and posting of all financial transactions of the
15 gambling establishment.

16 2) Submit, to the Commission, quarterly financial reports,
17 compiled by a certified public accountant and in accordance, with
18 California Code of Regulations, title 4, section 12403, subdivision
19 (a)(4)(A), alternative one. The quarterly reports are due to
20 Commission on the following dates: for the quarter ending
21 February 28, 2005, March 31, 2005; for the quarter ending May 31,
22 2005, June 30, 2005; for the quarter ending August 31, 2005,
23 September 30, 2005 and for the quarter ending November 30,
24 2005, December 31, 2005.

25 3) If the applicant fails to submit the requested information by the
26 above-mentioned dates, the Commission will not renew the
27 applicant's state gambling license. This would result in the
28 gambling establishment not being able to operate until the
Commission receives the documents requested. If continued
defiance of the conditions persists, the Commission will proceed
with the revocation process of the gambling establishment's State
Gambling License pursuant to Business and Professions Code
section 19920.

29 c. On or about March 23, 2005, the Commission approved a one-month
30 renewal of State Gambling License Number 990039 subject to the following
31 terms and conditions:

32 1) Maintain accounting books and records that include the
33 recording, dating, and posting of all financial transactions of the
34 gambling establishment.

35 2) Submit, to the Commission, quarterly financial reports,
36 compiled by a certified public accountant and in accordance, with

1 California Code of Regulations, title 4, section 12403, subdivision
2 (a)(4)(A), alternative one. The quarterly reports are due to
3 Commission on the following dates: for the quarter ending
4 February 28, 2005, March 31, 2005; for the quarter ending May 31,
5 2005, June 30, 2005; for the quarter ending August 31, 2005,
6 September 30, 2005; and for the quarter ending November 30,
7 2005, December 31, 2005.

8 3) If the applicant fails to submit the requested information by the
9 above-mentioned dates, the Commission will not renew the
10 applicant's temporary state gambling license. This would result in
11 the gambling establishment not being able to operate until the
12 Commission receives the documents requested. If continued
13 defiance of the conditions persists, the Commission will proceed
14 with the revocation process of the gambling establishment's State
15 Gambling License pursuant to Business and Professions Code
16 section 19920.

17 d. On or about April 21, 2005, the Commission approved a two-month renewal
18 of State Gambling License Number 990039 subject to the following terms and
19 conditions:

20 1) Maintain accounting books and records that include the
21 recording, dating, and posting of all financial transactions of the
22 gambling establishment.

23 2) Submit, to the Commission, quarterly financial reports,
24 compiled by a certified public accountant and in accordance, with
25 California Code of Regulations, title 4, section 12403, subdivision
26 (a)(4)(A), alternative one. The quarterly reports are due to
27 Commission on the following dates: for the quarter ending
28 February 28, 2005, March 31, 2005; for the quarter ending May 31,
2005, June 30, 2005; for the quarter ending August 31, 2005,
September 30, 2005, and for the quarter ending November 30,
2005, December 31, 2005.

3) If the applicant fails to submit the requested information by the
above-mentioned dates, the Commission will not renew the
applicant's temporary state gambling license. This would result in
the gambling establishment not being able to operate until the
Commission receives the documents requested. If continued
defiance of the conditions persists, the Commission will proceed
with the revocation process of the gambling establishment's State
Gambling License pursuant to Business and Professions Code
section 19920.

e. On or about June 8, 2005, the Commission extended the conditional approval
of the gambling license renewal for the period of July 1, 2005, through October
31, 2005, subject to the following terms and conditions:

1) Mr. Guzman shall keep and maintain accounting books and
records that include the reporting, dating, and posting to a general

1 or subsidiary ledger or journal all financial transactions of the
2 gambling establishment known as the "Don Juan Club and
Casino."

3 2) Mr. Guzman shall submit to the Commission on the dates
4 specified below quarterly financial reports that are compiled by an
5 independent certified public accountant and which reflect all
6 financial transactions of the gambling establishment known as the
"Don Juan Club and Casino" for the period ending June 30, 2005,
not later than July 31, 2005; and for the period ending September
30, 2005, not later than October 31, 2005.

7 3) Mr. Guzman shall meet and confer with Commission and
8 Division staff from time to time and at staff's request, but in no
9 event later than October 10, 2005, and at staff's request, to discuss
the status of Mr. Guzman's compliance with the terms and
conditions set forth herein.

10 4) The Commission shall place on the agenda for the last regularly
11 scheduled meeting of the Commission prior to October 31, 2005,
12 the status and a determination of Mr. Guzman's renewal
application for a state Gambling License if the application is still
pending on that date.

13 5) Nothing set forth herein is intended to prohibit the Division or
14 the Commission from instituting or maintaining hereafter any
15 action pursuant to and in accordance with the Gambling Control
16 Act to terminate or modify the Temporary State Gambling License
hereby granted to Mr. Guzman, whether or not such action is based
on Mr. Guzman's act(s) or failure to act before, on or after June 8,
2005.

17 3. On or about July 29, 2005, Respondent submitted an application for state gambling
18 license renewal to the Commission.

19 4. On or about October 20, 2005, the Commission, after informing the Respondent that it
20 intended not to renew Respondent's conditional license, agreed to permit the matter to be
21 referred for a hearing pursuant to the Administrative Procedures Act.

22 JURISDICTION

23 5. This Accusation and Statement of Issues is brought before the Commission
24 pursuant to the authority of the following Business and Professions Code ("Code") sections:

25 a. Code section 19826, in relevant part, states:

26 The division shall have all of the following responsibilities:

27 * * * *

28 (e) To initiate, where appropriate, disciplinary actions as provided
in this chapter. In connection with any disciplinary action, the

1 division may seek restriction, limitation, suspension, or revocation
2 of any license or approval, or the imposition of any fine upon any
3 person licensed or approved.

4 b. Code section 19824, in relevant part, states:

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

9 * * * *

10 (b) For any cause deemed reasonable by the commission, deny any
11 application for a license, permit, or approval provided for in this
12 chapter or regulations adopted pursuant to this chapter, limit,
13 condition, or restrict any license, permit, or approval, or impose
14 any fine upon any person licensed or approved.

15 * * * *

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

19 c. Code section 19825 states:

20 The commission may require that any matter that the commission
21 is authorized or required to consider in a hearing or meeting of an
22 adjudicative nature regarding the denial, suspension, or revocation
23 of a license, permit, or a finding of suitability, be heard and
24 determined in accordance with Chapter 5 (commencing with
25 Section 11500) of Part 1 of Division 3 of Title 2 of the
26 Government Code.

27 **STATUTORY PROVISIONS**

28 **(License Conditions)**

6. Pursuant to Code section 19824, the Commission has the power to condition any
license for "any cause deemed reasonable."

(Unqualified Person)

7. Pursuant to Code section 19823, subdivision (a), it is the Commission's
responsibility to ensure "that licenses . . . are not . . . held by, unqualified or disqualified persons,

1 or by persons whose operations are conducted in a manner that is inimical to the public health,
2 safety, or welfare.”

3 8. Code section 19823, subdivision (b), defines an “unqualified person” for purposes
4 of that section as “a person who is found to be unqualified pursuant to the criteria set forth in
5 Section 19857.”

6 9. Pursuant to Code section 19857, subdivision (b), an “unqualified person”
7 includes:

8 A person whose prior activities . . . habits . . . pose a threat to . . .
9 the effective regulation and control of controlled gambling, or
10 create or enhance the dangers of unsuitable, unfair, or illegal
11 practices, methods, and activities in the conduct of controlled
12 gambling or in the carrying on of the business and financial
13 arrangements incidental thereto.

12 **(Disqualified Person)**

13 10. Code section 19823, subdivision (b), defines “disqualified person” for purposes of
14 that section as “a person who is found to be disqualified pursuant to the criteria set forth in
15 Section 19859.”

16 11. Pursuant to Code section 19859, subdivision (a), a “disqualified person” includes
17 an individual who fails to “establish eligibility and qualification in accordance with this chapter.”

18 12. Pursuant to Code section 19859, subdivision (b), a “disqualified person” includes
19 an individual who fails “to provide information, documentation, and assurances required by this
20 chapter.”

21 **(Chart of Accounts Submission)**

22 13. Pursuant to Code sections 19840 and 19841, the Commission is authorized to
23 adopt regulations that do all of the following:

24 * * * *

25 (d) Require owner licensees to report and keep records of
26 transactions, including transactions as determined by the division,
27 involving cash or credit. The regulations may include, without
28 limitation, regulations requiring owner licensees to file with the
division reports similar to those required by Sections 5313 and
5314 of Title 31 of the United States Code, and by Sections 103.22

1 and 103.23 of Title 31 of the Code of Federal Regulations, and any
2 successor provisions thereto, from financial institutions, as defined
3 in Section 5312 of Title 31 of the United States Code and Section
4 103.11 of Title 31 of the Code of Federal Regulations, and any
5 successor provisions.

6 ***

7 (j) Require periodic financial reports from each owner licensee.

8 (k) Specify standard forms for reporting financial conditions, results of
9 operations, and other relevant financial information.

10 (Bus. & Prof. Code, § 19841.)

11 14. California Code of Regulations, title 4, section 12402, subdivision (b) requires a
12 licensee to submit a chart of accounts to the Commission for approval within ninety days of the
13 section's effective date.

14 15. California Code of Regulations, title 4, section 12403, subdivision (a)(4)(A),
15 alternative one requires a licensee to:

16 Engage an independent accountant licensed by the California
17 Board of Accountancy to perform a compilation of the licensee's
18 annual financial statements in accordance with standards for
19 accounting and review services or with currently applicable
20 professional accounting standards and management may elect not
21 to provide footnote disclosures as would otherwise be required by
22 generally accepted accounting principles.

23 FIRST CAUSE FOR DISCIPLINE

24 (Failure to Meet November 23, 2003, License Condition Number One)

25 16. Respondent's License Number 990039 is subject to suspension or revocation
26 pursuant to Code section 19824 in that Respondent failed to meet license condition number one
27 required by the Commission on November 23, 2003. The circumstances are as follows:

28 a. Division Auditor Jill Harvey, reviewed the financial documents
supplied by Respondent to the Commission on or about November
17, 2004.

b. On March 23, 2005, Division Auditor Jill Harvey conducted an
unannounced site visit at the Don Juan Club and Casino.

- 1 c. On and before March 23, 2005, Don Juan Club and Casino did
2 not have any journals or ledgers to post financial transactions.
3 d. On and before March 23, 2005, transactions related to employee
4 salaries and wages were not recorded in any manner.
5 e. On and before March 23, 2005, neither chip inventory nor
6 outstanding chip liability was recorded.
7 f. On and before March 23, 2005, the Don Juan Club and Casino
8 did not have a chart of accounts.

9 **SECOND CAUSE OF DENIAL**

10 **(Failure to Meet November 23, 2003, License Condition Number Two)**

11 17. Respondent's License Number 990039 is subject to suspension or revocation
12 pursuant to Code section 19824 in that Respondent failed to meet license condition number two
13 required by the Commission on November 23, 2003. The circumstances are as follows:

- 14 a. Don Juan Club and Casino did not submit financial reports to the
15 Commission on a quarterly basis in 2004.
16 b. On November 17, 2004, Respondent supplied the Commission with
17 financial documents.
18 c. The documents submitted by Respondent on November 17, 2004 did
19 not detail all the gaming activity transactions for the Don Juan Club and
20 Casino:
- 21 1) Employee salaries and wages were not recorded in any
22 manner on the documents submitted.
 - 23 2) There were no documents recording either chip inventory
24 or outstanding chip liability.

25 ///

26 ///

27 ///

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRD CAUSE OF DENIAL

(Failure to Meet December 1, 2004, License Condition Number One)

18. Respondent's License Number 990039 is subject to suspension or revocation pursuant to Code section 19824 in that Respondent failed to meet license condition number one required by the Commission on December 1, 2004. The circumstances are as follows:

- a. On March 23, 2005, Division Auditor Jill Harvey, conducted an unannounced site visit at the Don Juan Club and Casino.
- b. On March 23, 2005, Don Juan Club and Casino did not have any journals or ledgers to post financial transactions.
- c. On March 23, 2005, transactions related to employee salaries and wages were not recorded in any manner.
- d. On March 23, 2005, neither chip inventory nor outstanding chip liability was recorded.
- e. On March 23, 2005, the Don Juan Club and Casino did not have a chart of accounts.

FOURTH CAUSE OF DENIAL

(Failure to Meet December 1, 2004, License Condition Number Two)

19. Respondent's License Number 990039 is subject to suspension or revocation pursuant to Code section 19824 in that Respondent failed to meet license condition number two required by the Commission on December 1, 2004. The circumstances are as follows:

- a. The financial report for the first quarter of 2005, was due on March 31, 2005.
- b. The financial report for the first quarter of 2005, according to License Condition two, should have covered the period from January 1, 2005, to February 28, 2005.
- c. Don Juan Club and Casino submitted a financial report to the Commission on April 4, 2005.

- 1 d. The financial report submitted on April 4, 2005, was a draft of
2 unaudited financial statements for 2004, was not a compilation by a
3 public accountant, and did not cover the first quarter of 2005.
- 4 e. To date, Don Juan Club and Casino has not submitted a financial
5 report for the first quarter of 2005.
- 6 f. The financial report for the second quarter of 2005 was due on June
7 20, 2005.
- 8 g. The financial report for the second quarter of 2005, according to
9 license condition number two, should have covered the period from
10 March 1, 2005 to May 31, 2005.
- 11 h. A financial report covering the period from March 1, 2005 to May
12 31, 2005, has not been submitted to the Commission.
- 13 i. Don Juan Club and Casino submitted a financial report to the
14 Commission on September 23, 2005.
- 15 j. The financial report for the third quarter of 2005 was due on
16 September 30, 2005.
- 17 k. The financial report submitted on September 23, 2005, covered the
18 period from May 1, 2005 to July 31, 2005.
- 19 l. The financial report for the third quarter of 2005, according to
20 License Condition 2, should have covered the period from June 1, 2005
21 to August 31, 2005.
- 22 m. The accountant that prepared the financial report submitted on
23 September 23, 2005, was not independent as she also prepared Don
24 Juan's books and records. Accordingly, the financial report submitted
25 on September 23, 2005, was not a compilation.
- 26 n. To date, Don Juan Club and Casino has not submitted a financial
27 report for the third quarter of 2005.
- 28

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Respondent's Financial Reporting Activities and Habits Pose a Threat to**
3 **the Effective Regulation of Controlled Gambling and Enhance**
4 **The Dangers of Unsuitable, Unfair or Illegal Activities)**

5 20. Respondent's License Number 990039 is subject to suspension or revocation
6 pursuant to Code sections 19823, subdivision (b) and 19857, subdivision (b) in that
7 Respondent's failure to report his financial transactions as required by the conditions of his
8 license constitutes an activity and habit that poses a threat to the effective regulation of controlled
9 gambling and creates and enhances the danger of unsuitable, unfair and illegal practices, methods
10 and activities occurring in the conduct of controlled gambling at Don Juan Club and Casino, as
11 well as in the carrying on of the business and financial arrangements of the gambling
12 establishment. Complainant incorporates, by this reference, the circumstances described in the
13 allegations in Paragraphs 16 through 19 as the basis for this Fifth Cause for Discipline.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Respondent's Failure to Establish Eligibility and Qualification)**

16 21. Respondent's License Number 990039 is subject to suspension or revocation
17 pursuant to Code sections 19823, subdivision (b) and 19859, subdivision (a) in that Respondent
18 has failed to establish his eligibility and qualification to maintain a state gambling license by
19 failing to meet the conditions for licensure established by the Commission pursuant to Code
20 section 19824. Complainant incorporates, by this reference, the circumstances described in the
21 allegations in Paragraphs 16 through 19 as the basis for this Fifth Cause for Discipline.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Respondent's Failure to Provide Information and Documentation)**

24 22. Respondent's License Number 990039 is subject to suspension or revocation
25 pursuant to Code sections 19823, subdivision (b) and 19859, subdivision (b) in that Respondent
26 has failed to provide the license condition information and documentation required by the
27 Commission pursuant to Code section 19824. Complainant incorporates, by this reference, the
28

1 circumstances described in the allegations in Paragraphs 16 through 19 as the basis for this Sixth
2 Cause for Discipline.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Timely Submit Chart of Accounts)**

5 23. Respondent's License Number 990039 is subject to suspension or revocation
6 pursuant to Code sections 19840 and 19841 and California Code of Regulations, title 4, section
7 12402, subdivision (b) in that Respondent has failed to timely submit a Chart of Accounts for
8 Don Juan Club and Casino. The circumstances are as followed:

9 a. The Chart of Accounts was due on December 15, 2004—ninety days
10 after the September 16, 2004, effective date of California Code of
11 Regulations, title 4, section 12402, subdivision (b).

12 b. Respondent submitted the Don Juan Club and Casino's Chart of
13 Accounts to the Commission on July 25, 2005.

14 **FIRST CAUSE OF DENIAL**

15 **(Failure to Meet License Conditions)**

16 24. Respondent's application for state gambling license renewal is subject to denial
17 pursuant to Business and Professions Code sections 19824, subdivision (b) and 19876 in that
18 Respondent has repeated failed to meet the terms and conditions placed on his licensed.
19 Complainant incorporates, by this reference, the circumstances described in the allegations in
20 Paragraphs 16 through 19 as the basis for this First Cause of Denial.

21 **PRAYER**

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

24 1. Revoking State Gambling License Number 990039 issued to Don Juan Club &
25 Casino, Juan Jose Guzman, Sole Proprietor;

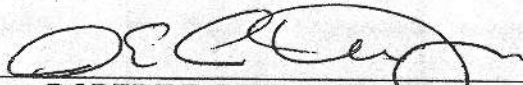
26

27

28

- 1 2. Revoking any conditional renewals or temporary licenses associated with State
- 2 Gambling License Number 990039 issued to Don Juan Club & Casino, Juan Jose Guzman, Sole
- 3 Proprietor;
- 4 3. Denying Respondent's application for renewal of State Gambling License
- 5 Number 990039;
- 6 4. Taking such and further action as is deemed necessary and proper.

7
8 Dated: December 27, 2005



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

Complainant

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28