

1 EDMUND G. BROWN JR.
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 Facsimile: (916) 322-5609
8 Attorneys for the Division of Gambling Control
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10 **BEFORE THE**
11 **CALIFORNIA GAMBLING CONTROL COMMISSION**
12 **STATE OF CALIFORNIA**
13

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

Case No. SA06-00114-01

OAH No. _____

15 **Otho Smith, Sole Proprietor**
16 **S&K CARDROOM**
17 **306 F Street**
Eureka, CA 95502

ACCUSATION

18 **License Number GEGE-000206**
19

20 Complainant alleges as follows:

21 **PARTIES**

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

25 2. On or about December 1, 2000, the California Gambling Control Commission
26 ("Commission") issued State Gambling License Number GEGE-000206 to Otho Smith, Sole
27 Proprietor of S&K Cardroom, 306 "F" Street, Eureka, California 95502 ("Respondent").
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1 **JURISDICTION**

2 3. This Accusation is brought before the Commission pursuant to the authority of the
3 following Business and Professions Code sections:

4 a. Business and Professions Code section 19826, in relevant part, states:

5 The division shall have all of the following responsibilities:

6 * * *

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

11 b. Business and Professions Code section 19930, subdivision (b), states:

12 If, after any investigation, the division is satisfied
13 that a license . . . should be suspended or revoked, it shall
14 file an accusation with the commission in accordance
15 with Chapter 5 (commencing with Section 11500) of
16 Part 1 of Division 3 of Title 2 of the Government Code.

15 c. Business and Professions Code section 19824, in relevant part, states:

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

19 * * *

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

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Violations of Accounting Regulations)**

24 4. Business and Professions Code section 19922 prohibits a licensee from operating a
25 gambling establishment in violation of any regulation adopted pursuant to the Gambling Control
26 Act, Business and Professions Code section 19800, et seq.

27 5. California Code of Regulations, title 4, section 12401, subdivision (b)(1) requires
28 gambling establishment licensees to maintain accounting records identifying: "[r]evenues,

1 expenses, assets, liabilities, and equity for the gambling establishment.” (Cal. Code. Regs., tit. 4,
2 § 12401, subd. (b)(1).)

3 6. California Code of Regulations, title 4, section 12401, subdivision (b)(4) requires
4 gambling establishment licensees to maintain accounting records identifying: “all jackpot
5 moneys contributed by the gambling establishment, jackpot moneys collected from patrons, or
6 both, and moneys withdrawn for either jackpot administrative fees or payment to patrons.” (Cal.
7 Code. Regs., tit. 4, § 12401, subd. (b)(4).)

8 7. Pursuant to California Code of Regulations, title 4, section 12405, a licensee is
9 required to retain records required to be maintained by the Gambling Control Act and its
10 accompanying regulations for seven years and provide the Division with copies of those records
11 upon request.

12 8. Respondent is subject to disciplinary action pursuant to Business and Professions Code
13 sections 19922, in that Respondent did not maintain accounting records as required by California
14 Code of Regulations, title 4, section 12401, subdivision (b)(1) and (b)(4). The circumstances are
15 as follows:

16 a. On October 16, 2006, Division Special Agent Supervisor Donald Van Doorn
17 and Field Representative Gabriele Taylor conducted an unannounced compliance site
18 visit at S&K Cardroom, 306 “F” Street, Eureka, CA 95502.

19 b. During the October 16, 2006, compliance site visit, the Division
20 representatives asked to see S&K Cardroom’s accounting records.

21 c. On October 16, 2006, Respondent provided Field Representative Gabriele
22 Taylor with copies of his accounting records. Respondent could not find or produce
23 any documents regarding the two Bad Beat Jackpots conducted at the cardroom.

24 d. On October 16, 2006, Respondent admitted to the Division representatives
25 that he did not record the daily amounts credited to the Bad Beat Jackpots conducted at
26 the S&K Cardroom.

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1 **SECOND CAUSE OF DISCIPLINE**

2 **(Employment of Gambling Enterprise Employee Without Work Permit)**

3 9. Business and Professions Code section 19922 prohibits a licensee from operating a
4 gambling establishment in violation of any provision of the Gambling Control Act.

5 10. Business and Professions Code section 19912, subdivision (a)(1) prohibits a licensee
6 from employing a gambling enterprise employee who does not have a valid work permit.

7 11. Business and Professions Code section 19805, subdivision (l) defines a gambling
8 enterprise employee as:

9 any natural person employed in the operation of a gambling enterprise,
10 including, without limitation, dealers, floor personnel, security employees,
11 count-room personnel, cage personnel, collection personnel, surveillance
12 personnel, data-processing personnel, appropriate maintenance personnel,
waiters and waitresses, and secretaries, or any other natural person whose
employment duties require or authorize access to restricted gambling
establishment areas.

13 12. Respondent is subject to disciplinary action pursuant to Business and Professions Code
14 section 19922, in that Respondent employed a gambling enterprise employee who did not have a
15 valid work permit as required by Business and Professions Code section 19912. The
16 circumstances are as follows:

17 a. On or about October 16, 2006, Respondent provided Division representatives
18 with copies of his accounting records, including expense summaries from November
19 2005 through September 2006.

20 b. S&K Cardroom's expense summaries indicated that Dominic Dawson was
21 paid on the following dates: (1) November 1, 2005; (2) November 16, 2005; (3)
22 December 16, 2005; (4) December 31, 2005; (5) January 17, 2006; and (6) February 1,
23 2006.

24 c. The Gambling Control Commission has never issued Dominic Dawson a
25 work permit or other license for employment in a gambling establishment.

26 d. Between September 27, 2005, and January 31, 2006, Dominic Dawson did
27 not have a current work permit from the Eureka Police Department permitting
28 employment in a cardroom.


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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 State Gambling License Number GEGE-000206 issued to Otho Smith, Sole Proprietor, S&K Cardroom, 306 "F" Street, Eureka, California 95502;
2. Awarding Complainant, pursuant to Business and Professions Code section 19930, the costs of investigation and costs of bringing this Accusation before the Commission, in an amount according to proof; and
3. Taking such and further action as is deemed necessary and proper.

Dated: May 2~~2~~ 2007


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

Complainant