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

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

15 **SCOTT A. HAYDEN**

16 

17
18 **LICENSE NUMBER GEKE-001313**
19

BGC Case No. HQ2014-0003A

OAH No.

ACCUSATION

20 Complainant alleges as follows:

21 **PARTIES**

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

25 2. At all times relevant herein, Scott A. Hayden (Respondent) was a Gambling
26 Establishment Key Employee with License Number GEKE-001313. That license expired on
27 February 28, 2014, but was extended by the California Gambling Control Commission
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1 (Commission) to October 31, 2014. From 2007 until June 30, 2014, Respondent, or a limited
2 liability company of which he was the sole member, was the General Manager for Garden City,
3 Inc. (Garden City), which is a licensed gambling enterprise (License Number GEGE-000410).
4 Garden City is a 49-table card room that presently does business as Casino M8trix at 1887
5 Matrix Boulevard in San Jose, California.

6 **STATEMENT OF THE CASE**

7 3. This case seeks to discipline Respondent's license – by revocation, suspension,
8 and/or fine as appropriate – for his violations of, and lack of suitability for continued licensing
9 under, the Gambling Control Act (Act) and the regulations adopted pursuant to the Act. As
10 alleged in this Accusation, Respondent provided untrue and misleading information to the
11 Bureau, failed to provide information requested by the Bureau, benefited from payments
12 prohibited by the Act, and assisted violations of the City of San Jose's (San Jose) gambling
13 ordinance. The acts and omissions alleged in this Accusation are inimical to the public health,
14 safety, and welfare; those acts and omissions demonstrate the Respondent is not a person of
15 good character, honesty, and integrity. His acts and omissions, as alleged in this Accusation,
16 pose a threat to the effective regulation and control of controlled gambling, and create or
17 enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
18 carrying on the business and financial arrangements incidental to the conduct of controlled
19 gambling. Respondent's acts and omissions not only impeded the Bureau's investigation and
20 fact gathering, but also undermined San Jose's regulation of gambling within its jurisdiction.
21 Respondent is not suitable or qualified for continued licensure; therefore, his license should be
22 disciplined.

23 **JURISDICTION**

24 4. Business and Professions Code, section 19811 provides, in part:

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

1 5. Business and Professions Code, section 19823 provides:

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

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

9 (2) Assuring that there is no material
10 involvement, directly or indirectly, with a licensed
11 gambling operation, or the ownership or
12 management thereof, by unqualified or disqualified
13 persons, or by persons whose operations are
14 conducted in a manner that is inimical to the public
15 health, safety, or welfare.

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

21 6. Business and Professions Code, section 19824 provides, in part:

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

26 * * *

27 (b) For any cause deemed reasonable by the commission, . . .
28 limit, condition, or restrict any license, permit, or approval, or
impose any fine upon any person licensed or approved. . . .

* * *

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

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

The department¹ . . . shall have all of the following responsibilities:

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

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

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

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

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

(d) Upon a finding of a violation of the Act, any regulations adopted pursuant thereto, any law related to gambling or gambling establishments, violation of a previously imposed disciplinary or license condition, or 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;

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

COST RECOVERY

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

(b) If, after any investigation, the department is satisfied that a license, permit, finding of suitability, or approval should be

1 suspended or revoked, it shall file an accusation with the
2 commission in accordance with Chapter 5 (commencing with
3 Section 11500) of Part 1 of Division 3 of Title 2 of the
4 Government Code.

* * *

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

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

19 (2) The department may enforce the order for
20 payment in the superior court in the county in
21 which the administrative hearing was held. The
22 right of enforcement shall be in addition to any
23 other rights that the division may have as to any
24 licensee to pay costs.

25 (3) In any judicial action for the recovery of
26 costs, proof of the commission's decision shall be
27 conclusive proof of the validity of the order of
28 payment and the terms for payment.

* * *

(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.

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

2 The commission shall deny a license to any applicant who
3 is disqualified for any of the following reasons:

4 (a) Failure of the applicant to clearly establish eligibility
5 and qualification in accordance with this chapter.

6 (b) Failure of the applicant to provide information,
7 documentation, and assurances required by the Chief, or
8 failure of the applicant to reveal any fact material to
9 qualification, or the supplying of information that is untrue or
10 misleading as to a material fact pertaining to the qualification
11 criteria.

12 16. Business and Professions Code section 19866 provides:

13 An applicant for licensing or for any approval or consent
14 required by this chapter, shall make full and true disclosure of all
15 information to the department and the commission as necessary to
16 carry out the policies of this state relating to licensing,
17 registration, and control of gambling.

18 17. Business and Professions Code section 19984, subdivision (a) provides:

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

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

18. San Jose Municipal Code, title 16, section 16.20.020 provides, in part:

21 A. A Cardroom Permittee shall only use persons who are
22 Employees to perform work related to its Gaming operation,
23 including without limitation, surveillance personnel, casino cage
24 personnel, compliance personnel, dealers, floor persons, game
25 attendants, chip runners, internal security, internal accounting,
26 any person supervising those individuals, and any Key Employee.
27 These services shall not be performed by consultants,
28 Independent Contractors or other third-persons. . . .

B. Notwithstanding Subsection A, the Administrator shall
allow a natural person who is otherwise qualified who wishes to
work for the Cardroom Permittee as an Independent Contractor in
a position related to the Gaming operation to apply for and hold

1 such a position as an Independent Contractor rather than as an
2 Employee, unless the Administrator finds that granting such an
3 exception would be inconsistent with the efficient administration
4 of the Division, the public interest, and the policies and
5 requirements of this Title.

6 19. San Jose Municipal Code, title 16, section 16.32.080 provides:

7 An Applicant for licensing and every Licensee shall make full and
8 true disclosure of all information the Administrator requires in
9 order to carry out the requirements and policies of this Title.

10 **FACTS UNDERLYING CAUSES FOR DISCIPLINE**

11 20. Respondent was the sole shareholder of two Wyoming corporations: Optimum
12 Solutions Consulting, Inc. and Creative Gaming Concepts, Inc. (collectively, Respondent's
13 corporations). He is their only employee.

14 21. Between May 1, 2010, and July 6, 2014, Team View Player Services, LLC (Team
15 View Player Services) provided third-party proposition player services to Garden City. Team
16 View Player Services' sole member is Timothy M. Gustin. Respondent and Mr. Gustin have a
17 longstanding friendship that existed before their associations with Garden City. Prior to
18 entering into a third-party proposition player agreement with Garden City, Team View Player
19 Services had no experience as a third-party provider. Mr. Gustin also is the sole member of
20 Team View Player Associates, LLC (Team View Associates). Nearly all Team View
21 Associates' income was derived from Team View Player Services.

22 22. Since November 2010, Respondent's corporations received payments totaling at least
23 \$867,000 from Team View Associates.

24 23. Respondent's corporations received payments totaling more than \$440,000 from
25 Dolchee LLC, a Nevada limited liability company, the members of which are Garden City's
26 owners or their affiliates. The Bureau requested an explanation and documents to substantiate
27 any services provided by Respondent's corporations. Respondent failed to respond to the
28 Bureau's request.

1 24. Beginning in 2007, Respondent was an employee of Garden City. On July 31, 2012,
2 he ceased to be a Garden City employee. However, he was an employee or agent of M8
3 Consulting, LLC (M8), which filed a Form LLC-1 with the California Secretary of State on
4 February 28, 2012. Respondent is M8's manager and sole member.

5 25. Pursuant to an Independent Contractor Agreement, dated August 1, 2012, M8 agreed,
6 among other things, to provide general manager services for Garden City. In connection with
7 its performance, M8 did not invoice, receive any written instructions or purchase orders from,
8 or provide any written reports to Garden City. When requested by the Bureau, Respondent
9 failed to provide any documents supporting M8's performance under the Independent
10 Contractor Agreement.

11 26. The monthly compensation under the Independent Contractor Agreement was
12 \$50,000 – or \$600,000 annually – with payments guaranteed to total at least \$2.4 million over
13 the agreement's term. Despite the monthly compensation provided in that agreement, M8
14 received more than \$992,000 in 2013, or 65 percent more than the contract rate. Before his
15 employment as general manager with Garden City ceased, Respondent's annual salary was
16 approximately \$279,000 with no guaranteed payments. When requested by the Bureau,
17 Respondent failed to provide any documents supporting the gross disparity between Garden
18 City's payments to him as an employee and its payments to M8.

19 27. As an independent contractor, M8 was to determine the method, details, and means of
20 performing as Garden City's general manager. M8, therefore, was not under Garden City's
21 control, but had the power to exercise a significant influence over Garden City's gambling
22 operation. Under the Independent Contractor Agreement, M8 agreed that it, as well as its
23 employees, would hold licenses or permits required by state law. M8 further agreed to perform
24 its general manager duties in accordance with applicable federal, state, and local laws.

25 28. M8 was not licensed by, and did not apply for licensure with, the Commission or the
26 Bureau. Respondent failed to notify the Bureau that he no longer was a Garden City employee,
27 or that he was employed by M8. In his application to renew his key license submitted to the
28

1 Bureau in October 2013, Respondent failed to indicate that he was no longer a Garden City
2 employee.

3 29. On February 13, 2014, Respondent submitted an Application for a City Cardroom
4 Key Employee License to San Jose. In that application, Respondent indicated that he was
5 employed by Casino M8trix, and failed to state that he was employed by M8 or any other
6 independent contractor. San Jose's Municipal Ordinance prohibited using non-employees to
7 perform general management functions and required full and true disclosure.

8 30. In July 2014, Garden City submitted a Notification of Change in Key Employee
9 Employment Status to the Bureau on behalf of Respondent. That form indicated Respondent
10 was terminated as a Garden City employee on June 30, 2014. The form did not refer to M8 in
11 any way.

12 **FIRST CAUSE FOR DISCIPLINE**
13 **(Prohibited Interests in the Funds Wagered, Lost, or Won by a Third-Party Provider)**

14 31. Respondent's license is subject to discipline, pursuant to Business and Professions
15 Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).
16 Respondent's continued licensure is inimical to public health, safety, and welfare. Respondent
17 is not a person of good character, honesty, and integrity. His prior activities pose a threat to the
18 effective regulation and control of controlled gambling, and create or enhance the dangers of
19 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and
20 financial arrangements incidental to the conduct of controlled gambling. Through wholly
21 owned entities, Respondent had an indirect interest in funds wagered, lost, or won by Team
22 View Player Services. Business and Professions Code section 19984, subdivision (a) prohibits
23 the receipt of such payments.

24 **SECOND CAUSE FOR DISCIPLINE**
25 **(Providing Untrue or Misleading Information to the Bureau)**

26 32. Respondent's license is subject to discipline, pursuant to Business and Professions
27 Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).
28 Respondent's continued licensure is inimical to public health, safety, and welfare. Respondent

1 is not a person of good character, honesty, and integrity. His prior activities pose a threat to the
2 effective regulation and control of controlled gambling, and create or enhance the dangers of
3 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and
4 financial arrangements incidental to the conduct of controlled gambling. Respondent, or his
5 agents, supplied untrue or misleading information as to material facts pertaining to his
6 qualification criteria. Specifically, the untrue or misleading information included:
7 Respondent's employment; the bases for Respondent's and M8's compensation; and the
8 services provided by Respondent's corporations to Team View Associates.

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10 **THIRD CAUSE FOR DISCIPLINE**
(Failure To Provide Information and Documentation Requested by the Bureau)

11 33. Respondent's license is subject to discipline, pursuant to Business and Professions
12 Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).
13 Respondent's continued licensure is inimical to public health, safety, and welfare. Respondent
14 is not a person of good character, honesty, and integrity. His prior activities pose a threat to the
15 effective regulation and control of controlled gambling, and create or enhance the dangers of
16 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and
17 financial arrangements incidental to the conduct of controlled gambling. Respondent, or his
18 agents, failed to provide information and documents requested by the Bureau acting on the
19 Complainant's behalf. Specifically, the information and documents requested, but not provided,
20 included: duty statements and work schedules for before and after August 1, 2012; documents
21 to justify substantial differences between compensation paid by Garden City before and after
22 August 1, 2012; documents to substantiate payments under the Independent Contractor
23 Agreement; documents to substantiate services provided to Team View Associates; and an
24 explanation and documents to substantiate services provided to Dolchee LLC.

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26 **FOURTH CAUSE FOR DISCIPLINE**
(Unqualified for Licensure)

27 34. Respondent's license is subject to discipline, pursuant to Business and Professions
28 Code sections 19823 and 19857, subdivisions (a) and (b). Respondent's continued licensure is


1 inimical to public health, safety, and welfare. Respondent is not a person of good character,
2 honesty, and integrity. His prior activities pose a threat to the effective regulation and control of
3 controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices,
4 methods, and activities in carrying on the business and financial arrangements incidental to the
5 conduct of controlled gambling. Respondent's conduct in his affairs demonstrates that he is
6 unqualified for licensure. That conduct includes the acts and omissions alleged above.
7 Additionally, that conduct includes: operating M8 without notifying the Bureau or any other
8 gambling regulator of its existence and business; providing general manager services through
9 M8 in violation of San Jose's Municipal Code; submitting a misleading application to San Jose
10 in violation of its Municipal Code; engaging in patterns and practices that demonstrate a
11 substantial disregard for prudent and usual business controls and documentation; and
12 commingling business and personal expenses.

13 PRAYER

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

- 16 1. Revoking California State Gambling Establishment Key Employee License Number
17 GEKE-001313, issued to Scott A. Hayden;
- 18 2. Awarding Complainant the costs of investigation and costs of bringing this
19 Accusation before the Commission, pursuant to Business and Professions Code section 19930,
20 subdivisions (d) and (f), in a sum according to proof; and
- 21 3. Taking such other and further action as the Commission may deem appropriate.

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23 Dated: September ^{24^{JH}} 2014


24 WAYNE J. QUINT, JR., Chief
25 Bureau of Gambling Control
26 California Department of Justice
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