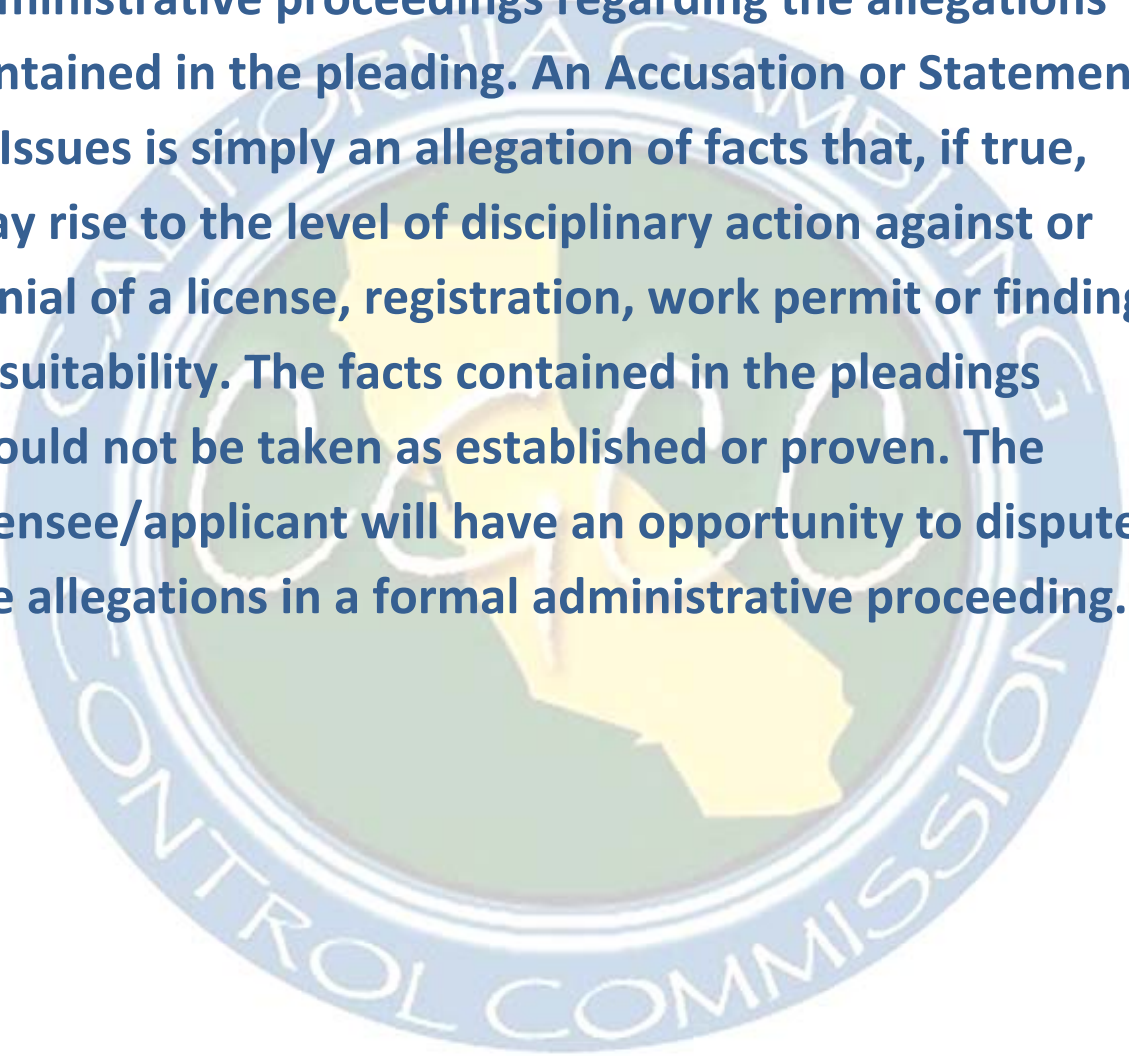


The Commission is providing a copy of this disciplinary pleading (Accusation, or Statement of Reasons, Statement of Particulars, or Statement of Issues) so the public is as informed as possible of pending administrative proceedings regarding the allegations contained in the pleading. An Accusation or Statement of Issues is simply an allegation of facts that, if true, may rise to the level of disciplinary action against or denial of a license, registration, work permit or finding of suitability. The facts contained in the pleadings should not be taken as established or proven. The licensee/applicant will have an opportunity to dispute the allegations in a formal administrative proceeding.



2016 OCT 17 AM 9:14

1 KAMALA D. HARRIS  
Attorney General of California  
2 SARA J. DRAKE  
Senior Assistant Attorney General  
3 RONALD L. DIEDRICH  
Deputy Attorney General  
4 WILLIAM P. TORNGREN  
Deputy Attorney General  
5 State Bar No. 58493  
1300 I Street, Suite 125  
6 P.O. Box 944255  
Sacramento, CA 94244-2550  
7 Telephone: (916) 323-3033  
Fax: (916) 327-2319  
8 E-mail: William.Torngren@doj.ca.gov  
*Attorneys for the Complainant*

9  
10 **BEFORE THE**  
**CALIFORNIA GAMBLING CONTROL COMMISSION**  
11 **STATE OF CALIFORNIA**  
12

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

14 **HAWAIIAN GARDENS CASINO, INC.**  
15 **(GEOW-000961), doing business as**  
16 **Hawaiian Gardens Casino (GEGE-000392;**

17 **THE MOSKOWITZ JOINT REVOCABLE**  
**LIVING TRUST (GEOW-003294);**

18 **CHERNA MOSKOWITZ (GEOW-003293);**

19 **DAVID MOSKOWITZ (GEOW-000966);**

20 **GARY KRAMER (GEOW-003402); and**

21 **IRVING MOSKOWITZ (GEOW-003292).**

22 **11871 Carson Street**  
23 **Hawaiian Gardens, CA 90716**

24 **Respondents.**

**OAH No.**

**BGC Case No. HQ 2016-00004AC**

**ACCUSATION**

1 Complainant alleges as follows:

2 **PARTIES**

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

6 2. Hawaiian Gardens Casino (The Gardens) is a licensed gambling establishment,  
7 California State Gambling License Number GEGE-000392. It is a 225-table card room  
8 presently operating at 11871 Carson Street, Hawaiian Gardens, California 90716. It is owned  
9 by respondent Hawaiian Gardens Casino, Inc. (Corporation) (license number GEOW-000961),  
10 the sole shareholder of which is respondent The Moskowitz Joint Revocable Living Trust  
11 (Trust) (license number GEOW-003294). The Trust's trustees are Cherna Moskowitz (license  
12 number GEOW-003293), David Moskowitz (license number GEOW-000966), Gary Kramer  
13 (license number GEOW-003402), and Irving Moskowitz (GEOW-003292). Collectively, the  
14 Corporation, the Trust, and the individual respondents are referred to in this Accusation as  
15 "Respondents." Each Respondent is endorsed on The Garden's license.

16 3. The California Gambling Control Commission (Commission) issued the above-  
17 described licenses, each of which will expire on November 30, 2016.

18 **SUMMARY OF THE CASE**

19 4. The Gambling Control Act (Act) is an exercise of the state's police power for the  
20 protection of the health, safety, and welfare of the people of the State of California. (Bus. &  
21 Prof. Code, § 19971.)<sup>1</sup> The Legislature has declared that the public trust requires  
22 comprehensive measures to ensure that gambling is free from criminal or corruptive elements.  
23 (Bus. & Prof. Code, § 19801, subd. (g).) The Legislature also has mandated that those persons  
24 who wish to avail themselves of the privilege of participating in California's licensed gambling  
25 industry make full and true disclosure to gambling regulators. (Bus. & Prof. Code, § 19866.)  
26 This proceeding seeks to revoke Respondents' licenses and impose fines and penalties as

27 <sup>1</sup> The statutes and regulations applicable to this Accusation are quoted in pertinent part  
28 in Appendix A.

1 allowed by law. Despite the requirements for full disclosure and reporting, Respondents failed  
2 to disclose, reveal, or report their admitted violations of the federal Bank Secrecy Act.<sup>2</sup> Both  
3 the failures to disclose and the admitted violations of the Bank Secrecy Act violated  
4 Respondents' duties and responsibilities under the Act and the regulations promulgated  
5 thereunder. In view of that nondisclosure and admitted violations of federal and state laws,  
6 Respondents' continued licensure undermines the public trust that licensed gambling does not  
7 endanger the public health, safety, and welfare. It also undermines the public trust that the  
8 licensed gambling industry is free from corruptive elements. Respondents are not suitable for  
9 continued licensure under the Act and regulations adopted pursuant thereto. Respondents'  
10 continued licensure is inimical to the public health, safety, and welfare.

#### 11 **JURISDICTION AND COST RECOVERY**

12 5. The Commission has jurisdiction over the operation and concentration of  
13 gambling establishments and all persons and things having to do with operation of gambling  
14 establishments. (Bus. & Prof. Code, § 19811, subd. (b).) The Act tasks the Bureau with,  
15 among other responsibilities, investigating suspected violations of the Act and initiating  
16 disciplinary actions. (Bus. & Prof. Code, §§ 19826, subds. (c) & (e) & 19930, subd. (b).) Upon  
17 the Bureau filing an accusation, the Commission proceeds under Government Code section  
18 11500 et seq. (Bus. & Prof. Code, § 19930, subd. (b); see Cal. Code Regs., tit. 4, § 12554, subd.  
19 (a).) The Commission's disciplinary powers include, among other things, revocation and  
20 imposition of a fine or monetary penalty. (Cal. Code Regs., tit. 4, § 12554, subd. (d).)

21 6. In a matter involving revocation, the Bureau may recover its costs of  
22 investigation and prosecuting the proceeding. (Bus. & Prof. Code, § 19930, subd. (d).)

#### 23 **FACTUAL BACKGROUND**

24 7. On July 15, 2016, the federal Financial Crimes Enforcement Network (FinCEN)  
25 issued an Assessment of Civil Money Penalty (Assessment) against The Gardens. The

26 <sup>2</sup> The Bank Secrecy Act is codified at title 12, United States Code, sections 1829b and  
27 1951 through 1959 and at title 31, United States Code, sections 5311 through 5314 and 5316  
28 through 5332. Regulations implementing the Bank Secrecy Act appear at title 31, Code of  
Federal Regulations, Chapter X.



1 Assessment recited that The Gardens admitted to facts set forth therein and “that its conduct  
2 violated the [Bank Secrecy Act].” The Gardens consented to the assessment of a \$2.8 million  
3 civil money penalty. A true copy of the Assessment is Attachment 1 to this Accusation and  
4 incorporated herein.

5 8. The Gardens admitted to willful violations of the Bank Secrecy Act’s program  
6 and reporting requirements, including failing to implement and maintain an effective anti-  
7 money laundering program,<sup>3</sup> failing to report certain transactions involving currency in amounts  
8 greater than \$10,000, failing to report certain suspicious activity, and failing to keep appropriate  
9 records. The Gardens admitted that its violations covered a period from September 1, 2009,  
10 through the Assessment’s date (July 15, 2016) – a period of nearly seven years.

11 9. Beginning after September 1, 2009, and continuing through September 15, 2016,  
12 Respondents failed to report, reveal, or otherwise disclose to the Bureau once they knew, or  
13 should have known, the following:

14 a. FinCEN or any other federal agency was examining The Gardens with respect to  
15 Bank Secrecy Act compliance covering a period from September 1, 2009,  
16 through February 28, 2011.

17 b. FinCEN or any other federal agency was examining The Gardens with respect to  
18 Bank Secrecy Act compliance covering a period from April 1, 2013, through  
19 March 31, 2014.

20 c. FinCEN or any other federal agency had concluded, or alleged, that The Gardens  
21 violated the Bank Secrecy Act.

22 d. FinCEN and The Gardens were involved in negotiations or discussions that  
23 could result in The Gardens admitting to Bank Secrecy Act violations.

24 e. The Gardens had violated the Bank Secrecy Act.

25 10. Beginning after September 1, 2009, and continuing through September 15, 2016,  
26 Respondents failed to report, reveal, or otherwise disclose to the Bureau once they knew, or

27 <sup>3</sup> Under the Bank Secrecy Act, willfully failing to develop, implement, and maintain an  
28 adequate anti-money laundering program is a felony. (See 31 U.S.C. § 5318(h)(1) & 5322(a).)

1 should have known, the violations of law, and underlying facts, to which they admitted in the  
2 Assessment.

3 11. Between September 1, 2009, and September 15, 2016, Respondents submitted,  
4 under penalty of perjury, multiple applications for license renewals in 2012, 2014, and 2016. In  
5 those applications, including renewal applications submitted on August 1, 2016, Respondents  
6 failed to disclose or reveal to the Bureau any of the facts and information set forth in paragraphs  
7 9 and 10 above.

8 12. The facts and information set forth in paragraphs 9 and 10 above are also  
9 material to Respondents' qualification for continued licensure. The failures to disclose or  
10 reveal the facts and information set forth in paragraphs 9 and 10 above obstructed or impeded  
11 the Commission's and the Bureau's ability to carry out the necessary policies of this state  
12 relating to the licensing, registration, and control of gambling. The facts admitted to in the  
13 Assessment constitute violations of the Act and the regulations adopted pursuant to the Act.

14 13. On August 16, 2016, the Attorney General's office on behalf of Complainant  
15 requested certain documents and information from The Gardens, which replied that it needed at  
16 least 30 days to respond. The documents and information sought were material to the  
17 Respondents' qualifications for licensure. The documents and information requested also were  
18 necessary to carry out the policies of this state relating to the licensing, registration, and control  
19 of gambling.

20 14. On September 22, 2016, The Gardens responded to Complainant's request for  
21 documents and information. That response contained certain untrue or misleading information  
22 including, among others:

23 a. Even though Respondents had not disclosed previously any of the facts and  
24 information set forth above in paragraphs 9 and 10, The Gardens stated that it  
25 "has always engaged in honest and frank dialogue with regulators."

26 b. In response to requests relating to The Gardens' Bank Secrecy Act Committee  
27 including meeting minutes and members, The Gardens stated no committee  
28 existed and none was required under the Bank Secrecy Act. The Gardens did not

1 produce any minutes or identify any committee members. The Gardens,  
2 however, stated that it has a Title 31 Compliance team that meets monthly.  
3 Additionally, in the Assessment, The Gardens admitted to facts involving its  
4 "BSA [Bank Secrecy Act] committee." In a letter dated August 26, 2015, to  
5 FinCEN, The Gardens repeatedly referred to its "Title 31 compliance  
6 committee."

7 c. In response to requests relating to The Gardens' failure to disclose, or report, to  
8 the Bureau possible violations admitted in the Assessment, The Gardens stated  
9 that the possible violations involved federal law and regulations, indicating The  
10 Gardens' incorrect belief that its reporting and disclosure obligations related only  
11 to state law violations and that the Bank Secrecy Act violations did not violate  
12 the Act or regulations.

13 d. Even though the Assessment states that The Gardens' leadership did not take an  
14 active role as it should have in promoting a strong culture of compliance, The  
15 Gardens' response stated that the admitted violations "were technical in nature."  
16 The Assessment, however, does not include the word "technical" in describing  
17 The Gardens' admitted conduct and violations. Rather, the Assessment  
18 characterized, or described, the violations, and underlying conduct, as  
19 significant, recurring, and uncorrected.

#### 20 **FIRST CAUSE FOR REVOCATION**

##### 21 **(Unqualified for Continued Licensure – Bus. & Prof. Code, § 19857)**

22 15. Respondents are unqualified for licensure and their gambling licenses are subject  
23 to revocation in that Respondents, by their own admissions, violated the Bank Secrecy Act over  
24 a nearly seven-year period by failing to implement and maintain an effective anti-money  
25 laundering program, failing to report certain transactions involving currency in amounts greater  
26 than \$10,000, failing to report certain suspicious activity, and failing to keep appropriate  
27 records, as set forth in paragraphs 7 and 8 above and in the Assessment. These violations of  
28 federal law resulted in the Respondents being assessed a \$2.8 million civil penalty. (Bus. &

1 Prof. Code, §§ 19801, 19823, 19857, subds. (a) & (b), 19920, 19922, 19924; Cal. Code Regs.,  
2 tit. 4, § 12315, subd. (a).)

### 3 SECOND CAUSE FOR REVOCATION

#### 4 (Unqualified for Continued Licensure – Bus. & Prof. Code, § 19857)

5 16. Respondents are unqualified for licensure and their gambling licenses are subject  
6 to revocation in that Respondents:

- 7 a. Failed to report, reveal, or otherwise disclose to the Bureau the unlawful conduct  
8 admitted to in the Assessment as set forth in paragraph 10 above;
- 9 b. Failed to report, reveal, or otherwise disclose to the Bureau the facts set forth in  
10 paragraph 9 above;
- 11 c. Failed to disclose or reveal to the Bureau and the Commission any of the facts  
12 set forth above in paragraphs 9 and 10, as required in connection with their  
13 license renewal applications, as set forth in paragraph 11 above; and
- 14 d. Provided untrue or misleading information in response to Complainant's request  
15 for documents and information as set forth above in paragraph 14 above.

16 (Bus. & Prof. Code, §§ 19823, 19857, subds. (a) & (b), 19866, 19920, 19922, 19924, 19944;  
17 Cal. Code Regs., tit. 4, § 12568, subd. (c)(3); Cal. Code Regs., tit. 11, § 2052, subd. (c).)

### 18 THIRD CAUSE FOR REVOCATION

#### 19 (Disqualified for Continued Licensure – Bus. & Prof. Code, § 19859)

20 17. Respondents are disqualified for licensure and their gambling licenses are  
21 subject to mandatory revocation in that Respondents:

- 22 a. Failed to report, reveal, or otherwise disclose to the Bureau the unlawful conduct  
23 admitted to in the Assessment as set forth in paragraph 10 above;
- 24 b. Failed to report, reveal, or otherwise disclose to the Bureau the facts set forth  
25 above in paragraph 9;
- 26 c. Failed to disclose or reveal to the Bureau and Commission any of the facts set  
27 forth above in paragraphs 9 and 10, as required in connection with their license  
28 renewal applications, as set forth in paragraph 11 above; and



1 d. Provided untrue or misleading information in response to Complainant's request  
2 for documents and information as set forth above in paragraph 14.  
3 (Bus. & Prof. Code, §§ 19823, 19859, subds. (a) & (b), 19866; Cal. Code Regs., tit. 4, § 12568,  
4 subd. (c)(4); Cal. Code Regs., tit. 11, § 2052, subd. (c).)

5 **PRAYER**

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

8 1. Revoking California State Gambling License Number GEOW-000961, issued to  
9 respondent Hawaiian Gardens Casino, Inc.;

10 2. Revoking California State Gambling License Number GEOW-003294, issued to  
11 respondent The Moskowitz Joint Revocable Living Trust;

12 3. Revoking California State Gambling License Number GEOW-003293, issued to  
13 respondent Cherna Moskowitz;

14 4. Revoking California State Gambling License Number GEOW-000966, issued to  
15 respondent David Moskowitz;

16 5. Revoking California State Gambling License Number GEOW-003402, issued to  
17 Gary Kramer;

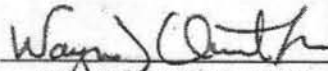
18 6. Revoking California State Gambling License Number GEOW-003292, issued to  
19 Irving Moskowitz;

20 7. Imposing fines or monetary penalties against Respondents, jointly and severally,  
21 according to proof and to the maximum extent allowed by law;

22 8. Awarding Complainant the costs of investigation and costs of bringing this  
23 Accusation before the Commission, pursuant to Business and Professions Code section 19930,  
24 subdivisions (d) and (f), in a sum according to proof; and  
25  
26  
27  
28

1 9. Taking such other and further action as the Commission may deem appropriate.  
2

3 Dated: October 17, 2016  
4

5   
6 WAYNE J. QUINT, JR., Chief  
7 Bureau of Gambling Control  
8 California Department of Justice  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1                    **APPENDIX A – STATUTORY AND REGULATORY PROVISIONS**

2                    **Jurisdictional Provisions**

- 3                    1. Business and Professions Code section 19811 provides, in part:

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

- 8                    2. Business and Professions Code section 19823 provides:

9                    (a) The responsibilities of the commission include, without limitation,  
10                    all of the following:

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

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

20                    (b) For the purposes of this section, “unqualified person” means a  
21                    person who is found to be unqualified pursuant to the criteria set forth in  
22                    Section 19857, and “disqualified person” means a person who is found to  
23                    be disqualified pursuant to the criteria set forth in Section 19859.

- 24                    3. Business and Professions Code section 19824 provides, in part:

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

28                    \* \* \*

29                    (b) For any cause deemed reasonable by the commission, . . . limit,  
30                    condition, or restrict any license, permit, or approval, or impose any fine  
31                    upon any person licensed or approved. The commission may condition,  
32                    restrict, discipline, or take action against the license of an individual owner  
33                    endorsed on the license certificate of the gambling enterprise whether or  
34                    not the commission takes action against the license of the gambling  
35                    enterprise.

36                    \* \* \*

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

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

5 The department<sup>4</sup> . . . shall have all of the following responsibilities:

6 \* \* \*

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

9 \* \* \*

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

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

16 (a) Upon the filing with the Commission of an accusation by the  
17 Bureau recommending revocation, suspension, or other discipline of a  
18 holder of a license, registration, permit, finding of suitability, or approval,  
19 the Commission shall proceed under Chapter 5 (commencing with section  
20 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

21 \* \* \*

22 (d) Upon a finding of a violation of the Act, any regulations adopted  
23 pursuant thereto, any law related to gambling or gambling establishments,  
24 violation of a previously imposed disciplinary or license condition, or laws  
25 whose violation is materially related to suitability for a license,  
26 registration, permit, or approval, the Commission may do any one or more  
27 of the following:

28 (1) Revoke the license, registration, permit, finding of suitability,  
or approval;

(2) Suspend the license, registration, or permit;

\* \* \*

(4) Impose any condition, limitation, order, or directive . . . ;

<sup>4</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).) The Bureau is an entity within the Department of Justice.



1 (5) Impose any fine or monetary penalty consistent with  
2 Business and Professions Code sections 19930, subdivision (c), and  
3 19943, subdivision (b)

4 **Cost Recovery Provisions**

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

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

10 \* \* \*

11 (d) In any case in which the administrative law judge recommends that  
12 the commission revoke, suspend, or deny a license, the administrative law  
13 judge may, upon presentation of suitable proof, order the licensee or  
14 applicant for a license to pay the department the reasonable costs of the  
15 investigation and prosecution of the case.

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

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

26 (3) In any judicial action for the recovery of costs, proof of the  
27 commission's decision shall be conclusive proof of the validity of the  
28 order of 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  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

- (g) Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that gambling is free from criminal and corruptive elements, that is conducted honestly and competitively . . . .

(i) All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all manufacturers, sellers, and distributors of gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.

\* \* \*

8. Business and Professions Code section 19857 provides:

(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

1 controlled gambling or in the carrying on of the business and financial  
2 arrangements incidental thereto.

3 (c) A person that is in all other respects qualified to be licensed as  
4 provided in this chapter.

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

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

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

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

15 10. Business and Professions Code section 19866 provides:

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

21 11. Business and Professions Code section 19920 provides:

22 It is the policy of the State of California to require that all  
23 establishments wherein controlled gambling is conducted in this state  
24 be operated in a manner suitable to protect the public health, safety,  
25 and general welfare of the residents of the state. The responsibility for  
26 the employment and maintenance of suitable methods of operation  
27 rests with the owner licensee, and willful or persistent use or toleration  
28 of methods of operation deemed unsuitable by the commission or by  
local government shall constitute grounds for license revocation or  
other disciplinary action.

12. Business and Professions Code 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.

13. Business and Professions Code section 19924 provides:

Each owner licensee shall maintain security controls over the  
gambling premises and all operations therein related to gambling, and  
those security controls are subject to the approval of the commission.

1 14. Business and Professions Code section 19944 provides, in part:

2 Any person who willfully resists, prevents, impedes, or interferes  
3 with the department or the commission or any of their agents or  
4 employees in the performance of duties pursuant to this chapter is  
guilty of a misdemeanor . . . .

5 15. Business and Professions Code section 19971 provides:

6 This act is an exercise of the police power of the state for the  
7 protection of the health, safety, and welfare of the people of the State of  
8 California, and shall be liberally construed to effectuate those purposes.

9 16. California Code of Regulations, title 4, section 12315 provides:

10 (a) A gambling enterprise is required to file a report of each  
11 transaction involving currency in excess of \$10,000, in accordance with  
section 14162(b) of the Penal Code.

12 (b) A gambling enterprise, regardless of gross revenue, shall  
13 make and keep on file at the gambling establishment a report of each  
14 transaction in currency, in accordance with sections 5313 and 5314 of  
Title 31 of the United States Code and with Chapter X of Title 31 of the  
15 Code of Federal Regulations, and any successor provisions. These  
reports shall be available for inspection at any time as requested by the  
Bureau.

16 (c) Nothing in this section shall be deemed to waive or to  
17 suspend the requirement that a gambling enterprise make and keep a  
18 record and file a report of any transaction otherwise required by the  
Bureau or the Commission.

19 17. California Code of Regulations, title 4, section 12568, subdivision (c), provides, in  
20 part:

21 A state gambling license, finding of suitability, or approval granted  
22 by the Commission . . . and an owner license for a gambling  
23 establishment if the owner licensee has committed a separate violation  
24 from any violations committed by the gambling establishment shall be  
subject to revocation by the Commission on any of the following  
grounds:

25 \* \* \*

26 (3) If the Commission finds the holder no longer meets  
27 any criterion for eligibility, qualification, suitability or continued  
28 operation, including those set forth in Business and Professions  
Code section 19857, 19858, or 19880, as applicable, or



1 (4) If the Commission finds the holder currently meets  
2 any of the criteria for mandatory denial of an application set forth  
3 in Business and Professions Code sections 19859 or 19860.

4 18. California Code of Regulations, title 11, section 2052, subdivision (c), provides:

5 Within five days of any owner licensee or key employee obtaining  
6 knowledge or notice of any possible violation of the Act or these  
7 regulations, a written report shall be submitted to the Bureau, which  
8 details the nature of the violation, the identities of those persons  
9 involved in the violation, and describes what actions have been taken to  
10 address the violation.  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTACHMENT 1**

**ASSESSMENT OF CIVIL MONEY PENALTY  
IN THE MATTER OF: HAWAIIAN GARDENS CASINO, INC.,  
DBA THE GARDENS CASINO**

<sup>1</sup> The Bank Secrecy Act is codified at 12 U.S.C. §§ 1829b, 1951-1959 and 31 U.S.C. §§ 5311-5314, 5316-5332. Regulations implementing the Bank Secrecy Act appear at 31 C.F.R. Chapter X.

for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this chapter . . . .”

The Gardens is a card club located in Hawaiian Gardens, California and has been in operation since 1995. It contains 225 table games, including baccarat, blackjack, poker, and Pai Gow. The Gardens was a “financial institution” and a “card club” within the meaning of the BSA and its implementing regulations during the time relevant to this action.<sup>2</sup> The Internal Revenue Service (IRS) examines card clubs for compliance with the BSA pursuant to authority delegated by FinCEN. In 2011 and 2014, IRS examined The Gardens and identified significant BSA violations.

## **II. DETERMINATIONS**

From September 1, 2009 through the present, The Gardens willfully violated the BSA’s program and reporting requirements.<sup>3</sup> As described below, The Gardens (a) failed to implement and maintain an effective anti-money laundering program;<sup>4</sup> (b) failed to report certain transactions involving currency in amounts greater than \$10,000;<sup>5</sup> (c) failed to report certain suspicious activity;<sup>6</sup> and (d) failed to keep certain appropriate records as required by the BSA and its implementing regulations.<sup>7</sup>

---

<sup>2</sup> 31 U.S.C. § 5312(a)(2); 31 C.F.R. § 1010.100(t).

<sup>3</sup> In civil enforcement of the Bank Secrecy Act under 31 U.S.C. § 5321(a)(1), to establish that a financial institution or individual acted willfully, the government need only show that the financial institution or individual acted with either reckless disregard or willful blindness. The government need not show that the entity or individual had knowledge that the conduct violated the Bank Secrecy Act, or that the entity or individual otherwise acted with an improper motive or bad purpose. The Gardens admits to “willfulness” only as the term is used in civil enforcement of the Bank Secrecy Act under 31 U.S.C. § 5321(a)(1).

<sup>4</sup> 31 U.S.C. §§ 5318(a)(2), 5318(h); 31 C.F.R. § 1021.210.

<sup>5</sup> 31 U.S.C. § 5313 and 31 C.F.R. § 1021.311.

<sup>6</sup> 31 U.S.C. § 5318(g); 31 C.F.R. § 1021.320.

<sup>7</sup> 31 C.F.R. § 1021.410.



**A. Violations of the Requirement to Establish and Implement an Effective Anti-Money Laundering Program**

The BSA and its implementing regulations require card clubs to develop and implement a written anti-money laundering (AML) program reasonably designed to assure and monitor compliance with the BSA.<sup>8</sup> The Gardens is required to implement an AML program that, at a minimum, provided for: (a) a system of internal controls to assure ongoing compliance; (b) independent testing of the card club's AML compliance program by card club personnel or parties external to the card club; (c) training of personnel; (d) the designation of an individual or individuals responsible for assuring day-to-day compliance; (e) procedures for using all available information to determine and verify name, address, social security or taxpayer identification number, and other identifying information for a person, to the extent determining and verifying the information is otherwise required under the BSA; (f) procedures for using all available information to determine the occurrence of any transactions or patterns of transactions required to be reported as suspicious; (g) procedures for using all available information to determine whether any records must be made and maintained pursuant to the BSA; and (h) for card clubs with automated data processing systems, use of such systems to aid in assuring compliance.<sup>9</sup> The Gardens failed to develop and implement an AML program that adequately provided for several of these requirements.

**1. Internal Controls**

The Gardens failed to implement an adequate system of internal controls to ensure compliance with the BSA. Significantly, many of these problems spanned the course of several

---

<sup>8</sup> 31 U.S.C. §§ 5318(a)(2), 5318(h); 31 C.F.R. § 1021.210(b)(1).

<sup>9</sup> 31 C.F.R. § 1021.210(b)(2).

years. And, for many of these issues, IRS examiners first highlighted many of these deficiencies as early as 2011, but The Gardens did not rectify these problems, leading to rediscovery of many of these same internal control violations in the 2014 exam. Moreover, the independent consultant hired by The Gardens also identified many of these problems in 2013; but because The Gardens did not fully implement these recommendations, the problems continued.

*a. Policies and Procedures*

The Gardens' written "Title 31 Compliance Policy" failed to cover all necessary elements required by BSA regulations – a finding further supported by The Gardens' 2013 independent test. The compliance policy failed to adequately address, or The Gardens failed to implement procedures for – and in some cases, did not even discuss – a number of critical topics: transaction monitoring and red flags; customer identification and verification; preparing and filing currency transaction reports; and addressing adverse findings of independent compliance test results. In short, The Gardens failed to adequately address certain basic components of an anti-money laundering program based on the risks associated with a card club of its size.

The Gardens' inadequate internal controls made it susceptible to money laundering and terrorist financing activity. As discussed in more detail below, IRS examiners identified significant problems with The Gardens' policies and procedures to file timely and accurate currency transaction reports and suspicious activity reports. Troublingly, many of these problems had been previously identified by the IRS years before during an examination in 2011. In particular, The Gardens had inadequate policies and procedures for customer identification, red flags, and possible structuring—which, as The Gardens' own 2013 independent test identified, has a "domino effect" on other areas of BSA/AML compliance. Existing policies and procedures were not consistently implemented for customer identification on transactions less than \$10,000, which significantly hindered The

Gardens' ability to identify red flags or possible structuring at the facility. This deficiency was identified in the 2011 examination conducted by the IRS as well as the card club's own 2013 independent test.

*b. Customer Identification*

The policies and procedures regarding customer identification were insufficient and were not effectually implemented. For example, The Gardens did not consistently implement its policy and procedure to review the "unknown" multiple transaction log entries for aggregate reportable transactions or potentially structured transactions. IRS examiners identified 62% of cash transactions in the multiple transaction log as conducted by "unknown," which represents a significant compliance risk. This had a significant impact on the suspicious activity reports and currency transactions reports filed by The Gardens. Indeed, of the suspicious activity reports filed by The Gardens between January 1, 2013 and September 18, 2014, 80% had at least one unknown subject. In fact, according to the 2013 independent test, the Gardens had no policies or procedures in place to address patrons who refused to provide information. The 2013 independent test characterized the lack of these policies and procedures as deficiencies "jeopardizing the [The Gardens'] ability to comply with the laws and regulations under the Bank Secrecy Act." The 2013 independent test further recommended that "[p]atrons who refuse to provide full identification...be placed on the Barred Patrons list and escorted from the casino property."

One such customer – known to The Gardens only by the alternate name "Michelle" – had been the subject of 15 prior suspicious activity reports and five currency transaction reports, but The Gardens failed to collect any identification on her. Furthermore, "Michelle" used agents, also unidentified by The Gardens, for structuring or attempting to structure transactions. On at least three separate occasions in 2013, The Gardens staff approached the customer to request

identification, but were unsuccessful. Despite this suspicious activity and the customer's refusal to provide identification, the Gardens still allowed the customer, and her agents, to game at the Card Club and conduct financial transactions through 2014. When confronted by IRS examiners, The Gardens' management argued that they did not believe they were required to bar patrons who refuse to provide identification and that doing this would cause them to lose customers to other card clubs in the area.

The Gardens also lacked policies and procedures to explain and document its decisions not to file a suspicious activity report, and did not have policies for conducting 90-day reviews to determine if suspicious activity was continuing. These failures created significant challenges to ensuring that law enforcement received up-to-date information.

*c. Culture of Compliance*

According to its charter, The Gardens' BSA committee included casino management and was required to meet once every three months, but only met once during all of 2013. This is particularly significant, as the charter of the BSA committee states, "[Suspicious Activity Reports] that involve employees or customers that are well known to the casino will be discussed before the [Suspicious Activity Report] is filed." The fact that the committee did not meet for such a long period, in violation of its own charter, likely prevented the timely reporting of any suspicious activity involving employees or well-known customers.

Additional evidence supports the fact that leadership at The Gardens did not take an active role as it should have in promoting a strong culture of compliance. For example, The Gardens' risk assessment was not comprehensive as it did not discuss risk factors pertaining to the type of clientele served by the card club, the type and volume of transactions, geographic location, and risks associated with services provided. Further, the risk assessment was not reviewed and approved by



The Gardens' leadership. The Gardens' management also failed to establish policies and procedures regarding customers refusing to provide identification and customers for which there have been multiple suspicious activity and currency transaction reports filed. When problems were identified by The Gardens, they often went uncorrected for extended periods of time. For example, during the 2014 IRS examination, The Gardens' Compliance Officer stated that some customers made large cash withdrawals with no play; however, despite self-identifying this issue in December 2013, The Gardens failed to implement policies and procedures to handle these situations as of June 2014 – six months later.

## **2. Compliance Officer**

The Gardens failed to have a qualified individual or individuals responsible for day-to-day BSA compliance as required by BSA regulations.<sup>10</sup> The individual designated with responsibility over the BSA/AML program during the 2014 examination period had not worked in the gaming industry and did not have any BSA/AML experience prior to assuming his new role. The designated compliance officer admitted to the examiner that he was trying to learn BSA regulations and requirements while on the job.

These shortcomings had consequences. Indeed, the significant weaknesses and violations identified in The Gardens' internal controls persisted from 2009 through 2014, indicating that the BSA Compliance Officer did not effectively ensure day-to-day compliance with the BSA and did not effectively correct several BSA compliance deficiencies initially identified in the 2011 examination and continuing through the 2014 examination. And, as detailed below, this failure had a significant negative impact on The Gardens' BSA filings, including the failure to file multiple suspicious activity reports and the filing of numerous reports with blank fields.

---

<sup>10</sup> 31 C.F.R. § 1021.210(b)(2)(iv).

### **3. Procedures for Using All Available Information**

The regulations covering card clubs (and casinos) require the institution to use all available information to identify and verify customer information including name, permanent address, Social Security number, and to determine occurrences of transactions or patterns of transactions that warrant the filing of a suspicious activity report.<sup>11</sup> The Gardens failed to use several pieces of information at its disposal. For instance, The Gardens had customer information collected through their player club cards, which are scanned and monitored by employees of The Gardens on an hourly basis. This customer information can be used to help identify customers and make determinations about whether filing a currency transaction report or suspicious activity report may be warranted. Like other casinos and card clubs, The Gardens also had significant surveillance covering the cages and casino floor. And (like any other financial institution), The Gardens had ample access to open source information, on the Internet and elsewhere, which would have supplied information that was otherwise omitted from The Gardens' filings and reports, and which would have helped the card club to detect, report, and prevent illegal activity.

The Gardens violated this requirement on multiple occasions, failing to obtain basic customer information. The Gardens did not attempt to match information within its own player club card database, resulting in incomplete filings. The Gardens' electronic negotiable instrument log failed to list the name of the drawee in 75% of the records reviewed by the IRS examiner. Further, customer records frequently listed a P.O. Box number rather than a permanent address as required by the BSA,<sup>12</sup> despite the fact the card club's internal records and basic Internet searches would have provided The Gardens all the information needed to complete many of the blank items in their

---

<sup>11</sup> 31 C.F.R. § 1021.210(b)(2)(v).

<sup>12</sup> 31 C.F.R. § 1021.410(b)(9).

records. These violations went uncorrected for more than a year after the independent test revealed the deficiency.

The Gardens also failed to update and amend BSA reporting when The Gardens obtained new or more accurate information. Eighty percent of suspicious activity reports and five percent of currency transaction reports filed between January 1, 2013 and September 18, 2014 have at least one unknown subject. Similarly, unknown persons conducted an additional 347 transactions between \$9,000 and \$10,000 recorded in the multiple transaction log – notably, just below the filing threshold for currency transaction reporting – between October 1, 2013 and December 31, 2013. Despite having the tools to acquire and complete data fields in its BSA filings, The Gardens' currency transaction reports and suspicious activity reports were not amended with updated information.

#### **B. Violations of Currency Transaction Reporting Requirements**

The BSA and its implementing regulations require card clubs to report transactions that involve either “cash in” or “cash out” of more than \$10,000 during a single gaming day.<sup>13</sup> Card clubs are also required to verify the identity of, and record information from, customers involved in transactions that generate currency transaction reports.<sup>14</sup> A card club must aggregate transactions in currency, or treat the transactions as a single transaction, if the card club has knowledge that the transactions are conducted by, or on behalf of, the same person and occur within the same gaming day.<sup>15</sup>

---

<sup>13</sup> 31 C.F.R. § 1021.311.

<sup>14</sup> 31 C.F.R. § 1021.312.

<sup>15</sup> 31 C.F.R. § 1021.313.

IRS's 2011 examination identified 59 instances within the exam scope in which The Gardens filed currency transaction reports with insufficient information. FinCEN independently confirmed that 14.98% of the currency transaction reports filed by The Gardens in calendar year 2011 contained missing or unknown subjects; 14.13% were missing address information or listed a P.O. Box; and 16.81% contained a missing or unknown Social Security number. Notably, even after the IRS warned The Gardens about these problems in the 2011 exam (and The Gardens did not contest or address these IRS findings in their response to the 2011 examination), the problems were worse. In calendar year 2012, missing or unknown subjects were reported on 19.25% of The Gardens' currency transaction reports; while 16.86% contained missing address information or listed a P.O. Box address; and 19.52% had missing or unknown Social Security numbers.

### **C. Violations of Suspicious Activity Reporting Requirements**

The BSA and its implementing regulations require card clubs to report a transaction that the card club "knows, suspects, or has reason to suspect" is suspicious, if the transaction is conducted or attempted by, at, or through the card club, and if the transaction involves or aggregates to at least \$5,000 in funds or other assets.<sup>16</sup> A transaction is "suspicious" if the transaction: (a) involves funds derived from illegal activity; (b) is intended or conducted in order to hide or disguise funds or assets derived from illegal activity; (c) is designed, whether through structuring or other means, to evade any requirement in the BSA or its implementing regulations; (d) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage; or (e) involves use of the card club to facilitate criminal activity.<sup>17</sup>

---

<sup>16</sup> 31 C.F.R. § 1021.320(a)(2).

<sup>17</sup> 31 C.F.R. §§ 1021.320(a)(2)(i)-(iv).

As revealed in both the 2011 and 2014 examinations, The Gardens failed to file suspicious activity reports for several suspicious transactions. In the 2011 exam, IRS examiners discovered 14 instances in which The Gardens failed to file a suspicious activity report. These include instances in which customers refused to provide identification but continued gaming, attempted structuring, and suspicious patterns of activity by known customers. Despite these adverse findings from the 2011 examination, the problems persisted. As revealed in the 2014 examination, there were, again, numerous instances in which the Gardens failed to file suspicious activity reports or incompletely filed information on an additional 19 customers. In many instances, the customers in question had previously been subjects of suspicious activity reports filed by The Gardens.

These issues – failures to file and failures to provide complete and accurate information – reveal a broader pattern of non-compliance. Even when SARs were filed by The Gardens, they frequently missed critical information and failed to provide context for broader suspicious activity. One customer, who conducted over \$600,000 of cash in and cash out transactions over 47 gaming days, was the subject of a series of incomplete SARs filed which did not capture the extent or the nature of the suspicious transactions occurring at The Gardens. Despite conducting transactions for these 47 days, The Gardens failed to capture basic identifying information for the customer in its SARs including a permanent address or Social Security number. In addition, for this individual and generally, The Gardens did not identify patterns of transactions outside of a 24 hour period in its SAR filings. These incomplete filings lessen the value of SARs to law enforcement by failing to meaningfully capture the critical information necessary to understand the underlying criminal activity and the individuals involved. Significantly, some SAR filings, including those pertaining to



the above customer, also failed to identify the name of an employee that assisted in conducting structured transactions for this customer.<sup>18</sup>

#### **D. Violations of Recordkeeping Requirements**

The BSA imposes special recordkeeping requirements on casinos and card clubs. Casinos and card clubs are required to maintain a separate record, called a negotiable instruments log, containing a list of each transaction between the casino or card club and its customers involving certain monetary instruments having a face value of \$3,000 or more. The negotiable instruments log must contain the time, date, and amount of the transaction; the name and permanent address of the customer; the type of instrument; the name of the drawee or issuer of the instrument; and all reference numbers and the name or casino/card club license number of the employee who conducted the transaction. Applicable transactions must be placed on the list in chronological order.<sup>19</sup>

The Gardens violated this recordkeeping requirement. The 2014 IRS examination identified 40 recordkeeping violations in The Gardens' negotiable instrument log – 100% of the reportable transactions. Every record on the log was incomplete in one or more ways including, for example, instances of missing the type of instrument, records missing the name of drawee, and multiple customers with a P.O. Box recorded when a permanent address is available and required.

---

<sup>18</sup> In 2009, The Gardens' surveillance video observed a customer structuring transactions with the assistance of employees. The customer attempted to cash out a \$14,833 transaction, then ripped up the required IRS identification form in the presence of the cage cashier when asked to complete it. The customer then went to the Asian VIP section of the Gardens and enlisted the employee listed above, and another employee, to cash out the transaction into \$10,000 and \$4,000 amounts without providing identification information. Despite the employee's complicity in this illegal conduct, the employee remained at The Gardens, which acknowledged the complicity (and reported it in a SAR) but continued to allow the employee to facilitate transactions, including this transaction in 2013 (which did not list the employee as a subject in the SAR).

<sup>19</sup> 31 C.F.R. § 1021.410(b)(9).

### III. CIVIL MONEY PENALTY

FinCEN has determined that The Gardens willfully violated the program, reporting, and recordkeeping requirements of the Bank Secrecy Act and its implementing regulations, as described in this ASSESSMENT, and that grounds exist to assess a civil money penalty for these violations.<sup>20</sup>

FinCEN has determined that the penalty in this matter will be \$2,800,000.

### IV. UNDERTAKINGS

By execution of the CONSENT, The Gardens agrees to the following UNDERTAKINGS:

A. Risk Assessment. The Gardens will complete a new risk assessment within 90 days of the date of the CONSENT. The Gardens will provide the risk assessment to FinCEN and IRS.

B. External Independent Reviewer. The Gardens will engage and retain an independent, external, qualified, and experienced external auditor (the Third-Party Reviewer), not subject to any conflict of interest, and subject to FinCEN's determination of non-objection after FinCEN's review of the engagement contract, to examine The Gardens' Bank Secrecy Act compliance program and to conduct risk-based independent testing of The Gardens' BSA/AML Program. The independent testing will test remedial steps taken to address all criticisms in the CONSENT. Three reviews will take place: the first will commence within 90 days of the completion of the risk assessment described above, the second examination will take place no later than 12 months after the completion of the first examination, and the remaining examination will take place no later than 24 months after the completion of the second examination. Each review will cover the prior year, with at least three months of transactional analysis to include a review of SAR filings for that time period. Based on the results of this review, The Gardens will file SARs or amend previously filed SARs, as appropriate, consistent with the SAR regulations for casinos and card clubs, and will

---

<sup>20</sup> 31 U.S.C. § 5321 and 31 C.F.R. § 1010.820.

advise FinCEN and IRS of the filings. The Third-Party Reviewer will prepare a written report for The Gardens setting forth its findings, and will transmit the report and all draft reports to FinCEN and IRS SB/SE simultaneously with any transmission to The Gardens or its agents. To the extent that the report identifies any material deficiencies in The Garden's programs and procedures, The Gardens will address and rectify the deficiencies as soon as is reasonably practicable and will advise FinCEN and IRS SB/SE of the remedial steps taken.

Failure to comply with any of these UNDERTAKINGS will constitute a violation of the CONSENT. If FinCEN determines that a failure to comply with any of the UNDERTAKINGS has occurred, FinCEN may take any enforcement action against The Gardens it deems appropriate, notwithstanding the below Release in Part VII. Additional actions taken by FinCEN may include, but are not limited to, the imposition of additional civil money penalties, injunctive orders, or ordering other remedial actions within the authorities of FinCEN.

#### **V. CONSENT TO ASSESSMENT**

To resolve this matter, and only for that purpose, The Gardens consents to this assessment of a civil penalty in the sum of \$2,800,000, and admits that it violated the BSA's program and reporting requirements.

The Gardens recognizes and states that it enters into the CONSENT freely and voluntarily and that no offers, promises, or inducements of any nature whatsoever have been made by FinCEN or any employee, agent, or representative of FinCEN to induce The Gardens to enter into the CONSENT, except for those specified in the CONSENT.

The Gardens understands and agrees that the CONSENT embodies the entire agreement between The Gardens and FinCEN relating to this enforcement matter only, as described in Section III above. The Gardens further understands and agrees that there are no express or implied

promises, representations, or agreements between The Gardens and FinCEN other than those expressly set forth or referred to in this document and that nothing in the CONSENT or in this ASSESSMENT OF CIVIL MONEY PENALTY (ASSESSMENT) is binding on any other agency of government, whether Federal, State, or local.

## **VI. PUBLIC STATEMENTS**

The Gardens expressly agrees that it shall not, nor shall its attorneys, agents, partners, directors, officers, employees, affiliates, or any other person authorized to speak on its behalf, make any public statement contradicting either its acceptance of responsibility set forth in the CONSENT or any fact in the DETERMINATIONS section of the CONSENT. FinCEN has sole discretion to determine whether a statement is contradictory and violates the terms of the CONSENT. If The Gardens, or anyone claiming to speak on behalf of The Gardens, makes such a contradictory statement, The Gardens may avoid a breach of the agreement by repudiating such statement within 48 hours of notification by FinCEN. If FinCEN determines that The Gardens did not satisfactorily repudiate such statement(s) within 48 hours of notification, FinCEN may void, in its sole discretion, the releases contained in the CONSENT and reinstitute enforcement proceedings against The Gardens. The Gardens expressly agrees to waive any statute of limitations defense to the reinstituted enforcement proceedings and further agrees not to contest any admission or other findings made in the CONSENT. This paragraph does not apply to any statement made by any present or former officer, director, employee, or agent of The Gardens in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on behalf of The Gardens or unless The Gardens later ratifies such claims, directly or indirectly. The Gardens further agrees that, upon notification by FinCEN, The Gardens will repudiate such

statement to the extent it contradicts either its acceptance of responsibility or any fact in the  
CONSENT.

## VII. RELEASE

Execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, settles all claims that FinCEN may have against The Gardens for the conduct described in Section III of the CONSENT. Execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, does not release any claim that FinCEN may have for conduct by The Gardens other than the conduct described in Section III of the CONSENT, or any claim that FinCEN may have against any director, officer, owner, employee, or agent of The Gardens, or any party other than The Gardens. Upon request, The Gardens shall truthfully disclose to FinCEN all factual information not protected by a valid claim of attorney-client privilege or work product doctrine with respect to the conduct of its current or former directors, officers, employees, agents, or others.

If FinCEN determines, in its sole judgment, that The Gardens has breached any portion of this agreement, FinCEN may void, in its sole discretion, the releases contained in the CONSENT and reinstitute enforcement proceedings against The Gardens. The Gardens expressly agrees to waive any statute of limitations defense to the reinstituted enforcement proceedings and further agrees not to contest any admission or other finding made in the CONSENT.

Accepted by:

<u>/S/</u>	<u>July 15, 2016</u>
Jamal El-Hindi	Date
Acting Director, Financial Crimes Enforcement Network	
U.S. Department of the Treasury	