

CALIFORNIA GAMBLING
CONTROL COMMISSION

2015 SEP 23 PM 1: 23

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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**SEVEN MILE CASINO, formerly known as
the Village Club (GEOW-000466);**

HARVEY F. SOUZA (GEOW-003395);

ELIZABETH J. SOUZA (GEOW-003396);

**HARVEY AND BETTE SOUZA LIVING
TRUST, dated February 7, 2010 (GEOW-
003394); and**

VC CARDROOM, INC. (GEOW-003390)

**285 Bay Boulevard
Chula Vista, CA 91910**

Respondents.

OAH No.

BGC Case No. HQ 2015-00004AC

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. Respondent Seven Mile Casino (Seven Mile), formerly known as the Village
7 Club, is a licensed gambling establishment, California State Gambling License Number GEGE-
8 000466. It is a 20-table card room presently operating at 285 Bay Boulevard, Chula Vista,
9 California. It changed its name and relocated to 285 Bay Boulevard in or around May 2015.

10 3. Respondent Harvey F. Souza (Mr. Souza), license number GEOW-003395, is
11 endorsed on Seven Mile's license. Respondent Elizabeth J. Souza (Mrs. Souza), license
12 number GEOW-003396, is endorsed on Seven Mile's license. Mr. and Mrs. Souza are the
13 trustees of Respondent Harvey and Bette Souza Living Trust (Trust), license number GEOW-
14 003394. The Trust, in turn, presently is the sole shareholder of Respondent VC Cardroom, Inc.
15 (Corporation), license number GEOW-003390, which does business as Seven Mile and is
16 endorsed on its license.

17 4. Prior to October 31, 2013, the Trust held the assets of Seven Mile. On October
18 31, 2013, the Trust transferred all assets of Seven Mile to the Corporation in return for stock.

19 5. Seven Mile, Mr. Souza, Mrs. Souza, the Trust, and the Corporation are referred
20 to collectively as "Respondents."

21 6. The California Gambling Control Commission (Commission) issued the above-
22 described licenses to Respondents. Each license will expire on December 31, 2015. An
23 application for renewal is pending as to each license.

24 **SUMMARY OF THE CASE**

25 7. This proceeding seeks to revoke Respondents' licenses, and impose the
26 maximum fine allowed by law. Respondents are not suitable for continued licensure under the
27 Gambling Control Act (Act) and regulations adopted pursuant to the Act. As alleged in this
28 Accusation, Respondents engaged in the following acts and omissions:

- 1 a. Respondents entered into a venture by which they received substantial
2 sums of monies to build a new card room at 285 Bay Boulevard, Chula
3 Vista, in return for their co-venturers' right to obtain an ownership
4 interest in Seven Mile. Respondents failed to disclose to the Bureau this
5 financing arrangement and the creation of the co-venturers' rights to own
6 Seven Mile. Respondents, as well as their co-venturers, concealed facts
7 necessary for the Commission to make informed licensing
8 determinations, and for the Bureau to make informed licensing
9 recommendations. The public trust is broken and the necessary
10 regulation of controlled gambling in California is undermined, when
11 licensees conceal material information from the Commission and the
12 Bureau.
- 13 b. Respondents allowed their co-venturers, who were not licensed as Seven
14 Mile's owners, to make, or substantially participate in, decisions
15 regarding the card room's operations and policies. Respondents, as well
16 as their co-venturers, concealed this participation from the Bureau and
17 the Commission. The public trust is broken and the necessary regulation
18 of controlled gambling in California is undermined, when undisclosed,
19 unlicensed persons exercise significant influence over gambling
20 operations.
- 21 c. Respondents operated Seven Mile, and its predecessor the Village Club,
22 in an unsuitable and unlawful manner. They withdrew monies from the
23 gambling establishment without adequate documentation. They engaged
24 in off-the-books transactions. Seven Mile's financial auditors issued a
25 qualified opinion because transactions with affiliates were not reported in
26 accordance with generally accepted auditing principles. The public trust
27 is broken and the necessary regulation of controlled gambling in
28 California is undermined, when a gambling establishment departs

1 significantly from usual business practices.

2 Pursuant to the Act and as a consequence of their acts and omissions, Respondents are
3 unqualified for, disqualified from, and unsuitable for continued licensure. Respondents'
4 continued licensure is inimical to the public health, safety, and welfare and a danger to the
5 effective regulation of controlled gambling.

6 **JURISDICTION AND COST RECOVERY**

7 8. The Commission has jurisdiction over the operation and concentration of
8 gambling establishments and all persons and things having to do with operation of gambling
9 establishments. (Bus. & Prof. Code, § 19811, subd. (b).)¹ The Act tasks the Bureau with,
10 among other responsibilities, investigating suspected violations of the Act and initiating
11 disciplinary actions. (Bus. & Prof. Code, §§ 19826, subds. (c) & (e) & 19930, subd. (b).) Upon
12 the Bureau filing an accusation, the Commission proceeds under Government Code section
13 11500 et seq. (Bus. & Prof. Code, § 19930, subd. (b); see Cal. Code Regs., tit. 4, § 12554, subd.
14 (a).) The Commission's disciplinary powers include, among other things, revocation and
15 imposition of a fine or monetary penalty. (Cal. Code Regs., tit. 4, § 12554, subd. (d).)

16 9. In a matter involving revocation or suspension, the Bureau may recover its costs
17 of investigation and prosecuting the proceeding. (Bus. & Prof. Code, § 19930, subd. (d).)

18 **REGULATION, SUITABILITY, AND THE DUTY OF DISCLOSURE**

19 10. Operating a card room in California is a revocable privilege. (Bus. & Prof.
20 Code, § 19801, subd. (k).) The Act provides for comprehensive regulation to prevent that
21 privilege from being abused. Comprehensive regulation maintains the public trust that
22 permissible gambling will not endanger the public health, safety, and welfare. That
23 comprehensive regulation covers all persons, practices, and associations related to the operation
24 of lawful gambling establishments. (Bus. & Prof. Code, § 19801, subd. (h).)

25 11. Under the Act, the Commission's responsibilities include assuring that no
26 unqualified or disqualified person, or any person whose operations are conducted in a manner

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

1 that is inimical to the public health, safety, and welfare, has any direct or indirect material
2 involvement with a licensed gambling operation. (Bus. & Prof. Code, § 19823, subd. (a)(2).)

3 12. Determining whether a person is suitable, or whether a person has material
4 involvement in a licensed gambling operation, begins with providing truthful information to the
5 Bureau. Accordingly, the Act directs that every applicant for licensing or any approval required
6 by the Act make full and true disclosure of all information necessary to carry out the state's
7 policies relating to licensing and control of gambling. (Bus. & Prof. Code, § 19866.)

8 13. The Act mandatorily disqualifies from licensure any person who fails "to reveal
9 any fact material to qualification" or supplies untrue or misleading information. (Bus. & Prof.
10 Code, § 19859, subd. (b).) Additionally, providing untrue or misleading information or failing
11 to provide information and documentation requires revocation of an existing license. (Cal.
12 Code Regs., tit. 4, § 12568, subd. (c)(4) [mandatory revocation of a state gambling license].)

13 14. The Act makes unqualified for licensure any person who is not of good
14 character, honesty, and integrity. (Bus. & Prof. Code, § 19857, subd. (a).) The Act also makes
15 unqualified for licensure any person whose prior activities and associations pose a threat to
16 effective regulation and control of controlled gambling, or create or enhance the dangers of
17 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and
18 financial arrangements incidental to the conduct of controlled gambling. (Bus. & Prof. Code, §
19 19857, subd. (b).) The license of any person, who becomes unqualified for licensure, must be
20 revoked. (Cal. Code Regs., tit. 4, § 12568, subd. (c)(3) [mandatory revocation of a state
21 gambling license].)

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Unqualified for Continued Licensure)**

24 15. Respondents' gambling licenses are subject to discipline, pursuant to Business
25 and Professions Code sections 19823 and 19857, subdivisions (a) and (b), and California Code
26 of Regulations, title 4, section 12568, subdivision (c)(3). Respondents' continued licensure is
27 inimical to public health, safety, and welfare. Respondents are not persons of good character,
28 honesty, and integrity. Their prior activities and associations pose a threat to the effective

1 regulation and control of controlled gambling, and create or enhance the dangers of unsuitable,
2 unfair, or illegal practices, methods, and activities in carrying on the business and financial
3 arrangements incidental to the conduct of controlled gambling. Respondents' conduct in their
4 dealings with the Commission and the Bureau demonstrate that they are unqualified for
5 licensure. That conduct includes, but is not limited to, the following acts and omissions:

6 a. Respondents failed to make full and true disclosure of information
7 necessary to carry out the state's policies relating to licensing and control
8 of gambling. Respondents did not disclose agreements regarding
9 financing and ownership arrangements. Respondents received a \$3
10 million loan from an entity affiliated with their co-venturers. The loan
11 was secured by the assets of Respondents' gambling establishment. In
12 addition, the loan was convertible at the co-venturers' option into an
13 ownership interest in Seven Mile. The loan proceeds were used in the
14 gambling establishment's operations and to construct new premises.
15 Respondents' co-venturers also acquired a 50-percent interest in the new
16 premises, and guaranteed commercial loans for improvements. In sum,
17 Respondents entered into a venture with unlicensed persons to build a
18 new facility, relocate the gambling establishment, and become co-
19 owners.

20 b. Even though Respondents had license applications and other approvals
21 pending before the Commission, they failed to disclose the venture, the
22 financing sources, giving an option to acquire an ownership interest, and
23 their co-venturers' involvement. This breached Respondents' duties
24 under the Act and made them unqualified for licensing.

25 c. Additionally, Respondents turned management, in whole or in part, of
26 Seven Mile over to their co-venturers, who were not licensed as owners.
27 The co-venturers, either directly or through Respondents, made
28 employment decisions, established operational policies and practices, and

1 directed Seven Mile's operations. The co-venturers thus exercised
2 significant influence over the gambling operation. Respondents'
3 nondisclosures concealed this conduct from both the Bureau and the
4 Commission.

- 5 d. Respondents engaged in patterns and practices that demonstrate a
6 substantial disregard for prudent and usual business controls and
7 oversight. They operated Seven Mile, and its predecessor the Village
8 Club, in an unsuitable manner. Their patterns and practices included
9 financial dealings involving hundreds of thousands of dollars without
10 adequate documentation. They engaged in off-the-books transactions.
11 Seven Mile's financial auditors issued a qualified opinion because
12 transactions with affiliates were not reported in accordance with
13 generally accepted auditing principles. Respondents' disregard for
14 prudent and usual business controls and oversight poses a threat to the
15 public interest and the effective regulation and control of controlled
16 gambling. Respondents engaged in unsuitable patterns and practices in
17 the conduct of controlled gambling or in carrying on the business and
18 financial arrangements incidental to controlled gambling.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Failing To Reveal Material Information to the Bureau)**

- 21 16. Respondents' gambling licenses are subject to discipline, pursuant to Business
22 and Professions Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions
23 (a) and (b), and California Code of Regulations, title 4, section 12568, subdivisions (c)(3) and
24 (4). Respondents' continued licensure is inimical to public health, safety, and welfare.
25 Respondents are not persons of good character, honesty, and integrity. Their prior activities and
26 associations pose a threat to the effective regulation and control of controlled gambling, and
27 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
28 in carrying on the business and financial arrangements incidental to the conduct of controlled

1 gambling. Respondents breached their duty of full and true disclosure to the Commission and
2 the Bureau. Respondents failed to reveal to, and concealed from, the Bureau material
3 information regarding financial interest holders, indebtedness, prospective ownership interests,
4 and other agreements, including, but not limited to, the following:

5 a. Respondents failed to make full and true disclosure of information
6 necessary to carry out the state's policies relating to licensing and control
7 of gambling. Respondents did not disclose agreements regarding
8 financing and ownership arrangements. Respondents received a \$3
9 million loan from an entity affiliated with their co-venturers. The loan
10 was secured by the assets of Respondents' gambling establishment. In
11 addition, the loan was convertible at the co-venturers' option into an
12 ownership interest in Seven Mile. The loan proceeds were used in the
13 gambling establishment's operations and to construct new premises.
14 Respondents' co-venturers also acquired a 50-percent interest in the new
15 premises, and guaranteed commercial loans for improvements. In sum,
16 Respondents entered into a venture with unlicensed persons to build a
17 new facility, relocate the gambling establishment, and become co-
18 owners.

19 b. Even though Respondents had license applications and other approvals
20 pending before the Commission, they failed to disclose the venture, the
21 financing sources, giving an option to acquire an ownership interest, and
22 their co-venturers' involvement. This breached Respondents' duties
23 under the Act and disqualified them from licensing.

24 c. Additionally, Respondents turned management, in whole or in part, of
25 Seven Mile over to their co-venturers, who were not licensed as owners.
26 The co-venturers, either directly or through Respondents, made
27 employment decisions, established operational policies and practices, and
28 directed Seven Mile's operations. The co-venturers thus exercised

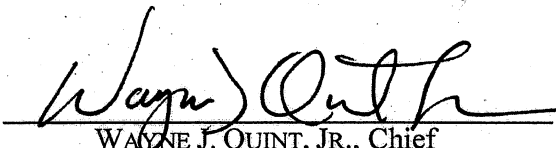
1 significant influence over the gambling operation. Respondents'
2 nondisclosures concealed this conduct from both the Bureau and the
3 Commission.

4 **PRAYER**

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

- 7 1. Revoking California State Gambling License Number GEGE-000466, issued to
8 Respondent Seven Mile Casino, formerly known as the Village Club;
9 2. Revoking California State Gambling License Number GEOW-003395, issued to
10 Respondent Harvey J. Souza;
11 3. Revoking California State Gambling License Number GEOW-003396, issued to
12 Respondent Elizabeth J. Souza;
13 4. Revoking California State Gambling License Number GEOW-003394, issued to
14 Respondent Harvey and Bette Souza Living Trust;
15 5. Revoking California State Gambling License Number GEOW-003390, issued to
16 Respondent VC Cardroom, Inc.;
17 6. Fining Respondents, jointly and severally, according to proof and to the
18 maximum extent allowed by law;
19 7. Awarding Complainant the costs of investigation and costs of bringing this
20 Accusation before the Commission, pursuant to Business and Professions Code section 19930,
21 subdivisions (d) and (f), in a sum according to proof; and
22 8. Taking such other and further action as the Commission may deem appropriate.

23
24 Dated: September 22, 2015


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

 * * *

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 department² . . . 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;

* * *

² "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

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**

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

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

11 * * *

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

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

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

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

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- (h) Public trust and confidence can only be maintained by strict comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture and distribution of permissible gambling equipment.

* * *

8. Business and Professions Code section 19850 provides, in part:

9. Business and Professions Code section 19852 provides, in part:

* * *

1 (i) Every employee, agent, guardian, personal representative,
2 lender, or holder of indebtedness of the owner who, in the judgment of
3 the commission, has the power to exercise significant influence over the
4 gambling operation.

5 10. Business and Professions Code section 19855 provides, in part:

6 [E]very person who, by statute or regulation, is required to hold a state
7 license shall obtain the license prior to engaging in the activity or
8 occupying the position with respect to which the license is required.

9 11. Business and Professions Code section 19857 provides:

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

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

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

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

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

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

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

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

13. Business and Professions Code section 19866 provides:

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

1 14. Business and Professions Code section 19920 provides:

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

11 15. Business and Professions Code section 19922 provides:

12 No owner licensee shall operate a gambling enterprise in violation
13 of any provision of this chapter or any regulation adopted pursuant to
14 this chapter.

15 16. California Code of Regulations, title 4, section 12556, subdivision (c), provides, in
16 part:

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

23 * * *

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

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