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**BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA**

**In the Matter of the Amended Accusation
and Statement of Issues Against:**

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

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

CHERNA MOSKOWITZ (GEOW-003293);

DAVID MOSKOWITZ (GEOW-000966);

GARY KRAMER (GEOW-003402); and

IRVING MOSKOWITZ (GEOW-003292).

11871 Carson Street
Hawaiian Gardens, CA 90716

Respondents.

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

AMENDED ACCUSATION AND
STATEMENT OF ISSUES

(Replacing the Accusation filed on October 17,
2016)

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Stephanie Shimazu (Complainant), as the successor to Wayne J. Quint, Jr.,
4 brings this Amended Accusation and Statement of Issues (Charging Pleading) solely in her
5 official capacity as the Director of the California Department of Justice, Bureau of Gambling
6 Control (Bureau). This Charging Pleading replaces the Accusation filed on October 17, 2016.

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

15 Collectively, the Corporation, the Trust, and the individual respondents are referred to in this
16 Charging Pleading as "Respondents." Each Respondent is endorsed on The Garden's license.

17 3. On November 22, 2016, the California Gambling Control Commission
18 (Commission) considered Respondents' renewal applications and referred the applications to an
19 evidentiary hearing. The Commission issued interim renewal licenses.

20 **SUMMARY OF THE CASE**

21 4. The Gambling Control Act (Act) is an exercise of the state's police power for the
22 protection of the health, safety, and welfare of the people of the State of California. (Bus. &
23 Prof. Code, § 19971.)¹ The Legislature has declared that the public trust requires
24 comprehensive measures to ensure that gambling is free from criminal or corruptive elements.
25 (Bus. & Prof. Code, § 19801, subd. (g).) The Legislature also has mandated that those persons
26 who wish to avail themselves of the privilege of participating in California's licensed gambling

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

1 industry make full and true disclosure to gambling regulators. (Bus. & Prof. Code, § 19866.)
2 This proceeding seeks to revoke Respondents' licenses, deny their license applications, and
3 impose fines and penalties as allowed by law. Despite the requirements for full disclosure and
4 reporting, Respondents failed to disclose, reveal, or report their admitted violations of the
5 federal Bank Secrecy Act.² Both the failures to disclose and the admitted violations of the Bank
6 Secrecy Act violated Respondents' duties and responsibilities under the Act and the regulations
7 promulgated thereunder and made them unsuitable for licensing. In view of that nondisclosure
8 and admitted violations of federal and state laws, Respondents' continued licensure undermines
9 the public trust that licensed gambling does not endanger the public health, safety, and welfare.
10 It also undermines the public trust that the licensed gambling industry is free from corruptive
11 elements. Respondents are not suitable for continued licensure under the Act and regulations
12 adopted pursuant thereto. Respondents' continued licensure is inimical to the public health,
13 safety, and welfare.

14 JURISDICTION AND COST RECOVERY

15 5. The Commission has jurisdiction over the operation and concentration of
16 gambling establishments and all persons and things having to do with the operation of gambling
17 establishments. (Bus. & Prof. Code, § 19811, subd. (b).) The Act tasks the Bureau with,
18 among other responsibilities, investigating suspected violations of the Act and initiating
19 disciplinary actions. (Bus. & Prof. Code, §§ 19826, subds. (c) & (e) & 19930, subd. (b).) Upon
20 the Bureau filing an accusation, the Commission proceeds under Government Code section
21 11500 et seq. (Bus. & Prof. Code, § 19930, subd. (b); see Cal. Code Regs., tit. 4, § 12554, subd.
22 (a).) The Commission's disciplinary powers include, among other things, revocation and
23 imposition of a fine or monetary penalty. (Cal. Code Regs., tit. 4, § 12554, subd. (d).)

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

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

1 **FACTUAL BACKGROUND**

2 7. On July 15, 2016, the federal Financial Crimes Enforcement Network (FinCEN)
3 issued an Assessment of Civil Money Penalty (Assessment) against The Gardens. The
4 Assessment recited that The Gardens admitted to facts set forth therein and “that its conduct
5 violated the [Bank Secrecy Act].” The Gardens consented to the assessment of a \$2.8 million
6 civil money penalty. A true copy of the Assessment is Attachment 1 to this Charging Pleading
7 and incorporated herein.

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

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

- 17 a. FinCEN or any other federal agency was examining The Gardens with respect to
18 Bank Secrecy Act compliance covering a period from September 1, 2009,
19 through February 28, 2011.
- 20 b. FinCEN or any other federal agency was examining The Gardens with respect to
21 Bank Secrecy Act compliance covering a period from April 1, 2013, through
22 March 31, 2014.
- 23 c. FinCEN or any other federal agency had concluded, or alleged, that The Gardens
24 violated the Bank Secrecy Act.
- 25 d. FinCEN and The Gardens were involved in negotiations or discussions that
26 could result in The Gardens admitting to Bank Secrecy Act violations.

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

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

2 10. Beginning after September 1, 2009, and continuing through September 15, 2016,
3 Respondents failed to report, reveal, or otherwise disclose to the Bureau once they knew, or
4 should have known, the violations of law, and underlying facts, to which they admitted in the
5 Assessment.

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

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

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

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

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- a. Even though Respondents had not disclosed previously any of the facts and information set forth in paragraphs 9 and 10 above, The Gardens stated that it “has always engaged in honest and frank dialogue with regulators.”
- b. In response to requests relating to The Gardens’ Bank Secrecy Act committee including meeting minutes and members, The Gardens stated no committee existed and none was required under the Bank Secrecy Act. The Gardens did not produce any minutes or identify any committee members. The Gardens, however, stated that it has a Title 31 compliance team that meets monthly. Additionally, in the Assessment, The Gardens admitted to facts involving its “BSA [Bank Secrecy Act] committee.” In a letter dated August 26, 2015, to FinCEN, The Gardens repeatedly referred to its “Title 31 compliance committee.”
- c. In response to requests relating to The Gardens’ failure to disclose, or report, to the Bureau possible violations admitted in the Assessment, The Gardens stated that the possible violations involved federal law and regulations, indicating The Gardens’ incorrect belief that its reporting and disclosure obligations related only to state law violations and that the Bank Secrecy Act violations did not violate the Act or regulations.
- d. Even though the Assessment states that The Gardens’ leadership did not take an active role as it should have in promoting a strong culture of compliance, The Gardens’ response stated that the admitted violations “were technical in nature.” The Assessment, however, does not include the word “technical” in describing The Gardens’ admitted conduct and violations. Rather, the Assessment characterized, or described, the violations, and underlying conduct as significant, recurring, and uncorrected.

1 **FIRST CAUSE FOR REVOCATION AND DENIAL**

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

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

11 (Bus. & Prof. Code, §§ 19801, 19823, 19857, subs. (a) & (b), 19920, 19922, 19924; Cal. Code
12 Regs., tit. 4, § 12315, subd. (a).)

13 **SECOND CAUSE FOR REVOCATION AND DENIAL**

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

15 16. Respondents are unqualified for licensure and their gambling licenses are subject
16 to revocation, and their renewal applications subject to denial, in that Respondents:

- 17 a. Failed to report, reveal, or otherwise disclose to the Bureau the unlawful conduct
18 admitted to in the Assessment as set forth in paragraph 10 above;
- 19 b. Failed to report, reveal, or otherwise disclose to the Bureau the facts set forth in
20 paragraph 9 above;
- 21 c. Failed to disclose or reveal to the Bureau and the Commission any of the facts
22 set forth above in paragraphs 9 and 10, as required in connection with their
23 license renewal applications, as set forth in paragraph 11 above; and
- 24 d. Provided untrue or misleading information in response to Complainant’s request
25 for documents and information as set forth in paragraph 14 above.

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

1 **THIRD CAUSE FOR REVOCATION AND DENIAL**

2 **(Disqualified for Continued Licensure – Bus. & Prof. Code, § 19859)**

3 17. Respondents are disqualified for licensure and their gambling licenses are
4 subject to mandatory revocation, and their renewal applications subject to mandatory denial, in
5 that Respondents:

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

15 (Bus. & Prof. Code, §§ 19823, 19859, subds. (a) & (b), 19866; Cal. Code Regs., tit. 4, § 12568,
16 subd. (c)(4); Cal. Code Regs., tit. 11, § 2052, subd. (c).)

17 **PRAYER**

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

- 20 1. Revoking California State Gambling License Number GEOW-000961, issued to
21 respondent Hawaiian Gardens Casino, Inc.;
- 22 2. Revoking California State Gambling License Number GEOW-003294, issued to
23 respondent The Moskowitz Joint Revocable Living Trust;
- 24 3. Revoking California State Gambling License Number GEOW-003293, issued to
25 respondent Cherna Moskowitz;
- 26 4. Revoking California State Gambling License Number GEOW-000966, issued to
27 respondent David Moskowitz;
- 28

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

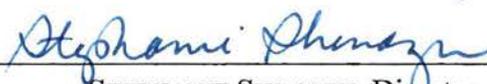
3 6. Revoking California State Gambling License Number GEOW-003292, issued to
4 Irving Moskowitz;

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

7 8. Awarding Complainant the costs of investigation and costs of bringing this
8 Charging Pleading before the Commission, pursuant to Business and Professions Code section
9 19930, subdivisions (d) and (f), in a sum according to proof; and

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

11
12 Dated: November 18, 2019


STEPHANIE SHIMAZU, Director
Bureau of Gambling Control
California Department of Justice

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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^[4] . . . 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 . . . ;

⁴ "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**

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.

1 Specific Statutory and Regulatory Provisions

2 7. Business and Professions Code, section 19801 provides, in part:

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

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

9 (i) All gambling operations, all persons having a significant
10 involvement in gambling operations, all establishments where gambling
11 is conducted, and all manufacturers, sellers, and distributors of gambling
12 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.

13 * * *

14 (k) In order to effectuate state policy as declared herein, it is
15 necessary that gambling establishments, activities, and equipment be
16 licensed, that persons participating in those activities be licensed or
17 registered, that certain transactions, events, and processes involving
18 gambling establishments and owners of gambling establishments be
19 subject to prior approval or permission, that unsuitable persons not be
permitted to associate with gambling activities or gambling
20 establishments Any license or permit issued, or other approval
granted pursuant to this chapter, is declared to be a revocable privilege,
and no holder acquires any vested right therein or thereunder.

21 8. Business and Professions Code section 19857 provides:

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

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

25 (b) A person whose prior activities, criminal record, if any,
26 reputation, habits, and associations do not pose a threat to the public
27 interest of this state, or to the effective regulation and control of
28 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.

29 12. Business and Professions Code section 19922 provides:

30 No owner licensee shall operate a gambling enterprise in violation
31 of any provision of this chapter or any regulation adopted pursuant to
32 this chapter.

33 13. Business and Professions Code section 19924 provides:

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

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

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

15. Business and Professions Code section 19971 provides:

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

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

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

(b) A gambling enterprise, regardless of gross revenue, shall make and keep on file at the gambling establishment a report of each 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 Code of Federal Regulations, and any successor provisions. These reports shall be available for inspection at any time as requested by the Bureau.

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

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

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

* * *

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

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(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.

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

Within five days of any owner licensee or key employee obtaining knowledge or notice of any possible violation of the Act or these regulations, a written report shall be submitted to the Bureau, which details the nature of the violation, the identities of those persons involved in the violation, and describes what actions have been taken to address the violation.