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

13
14 In the Matter of the Statement of Reasons for
15 Denial of Application for Renewal of Key
Employee License for:

16 **VA PHONG**
17 **License Number GEKE-001287**

18 **Respondent.**

CGCC Case No. CGCC-2020-0312-9

BGC Case No. BGC-HQ2019-00002AC

**STIPULATED SETTLEMENT;
DECISION, AND ORDER**

Hearing Date: February 22-25, 2021

Place: 2399 Gateway Oaks, Suite 100
Sacramento, CA 95833

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PURPOSE OF THIS STIPULATED SETTLEMENT

This Stipulated Settlement resolves the above-titled Statement of Reasons, which pertains to respondent Va Phong (Respondent). The Statement of Reasons, among other things, seeks denial of Respondent’s application to renew his key employee license for violations of, and lack of suitability for continued licensing under, the Gambling Control Act (Act) (Bus. & Prof. Code, § 19800 et seq.) and the regulations adopted thereunder. On March 26, 2020, the California Gambling Control Commission (Commission) approved a settlement of a Statement of Reasons with respect to Sau Cung Phong, Inc., the owner and operator of Casino Marysville (Casino), a licensed gambling establishment, and its sole shareholder (Casino Matter). Respondent is employed by Casino, and the Casino Matter is related to this matter.

On March 12, 2020, the Commission referred Respondent’s application to renew his key employee license to an evidentiary hearing. This Stipulated Settlement is intended to resolve that matter.

PARTIES

1. Stephanie K. Shimazu (Complainant) filed and served the Statement of Reasons solely in her official capacity as the Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

2. Respondent holds key employee license number GEKE-001287, which is active. The Commission issued this license, and on the same day this matter was referred to hearing, provided Respondent with an interim renewal valid through the earlier of the conclusion of the evidentiary hearing or December 31, 2021. (Cal. Code Regs., tit. 4, § 12035.)

JURISDICTION

3. Respondent was served with the Statement of Reasons, as well as a Statement to Respondent (Gov. Code, § 11505, subd. (b)), copies of Government Code sections 11507.5, 11507.6 and 11507.7, and two copies of the Notice of Defense form (Gov. Code, §§ 11505 & 11506).

4. Respondent served a timely Notice of Defense with respect to the Statement of Reasons.

1 **ADVISEMENT AND WAIVERS**

2 5. Respondent has carefully reviewed, and has discussed with counsel, the legal and
3 factual allegations in the Statement of Reasons. Respondent has also carefully reviewed, and has
4 discussed with counsel, this Stipulated Settlement. Respondent fully understands the terms and
5 conditions contained within this Stipulated Settlement and the effects thereof.

6 6. Respondent is fully aware of his legal rights in this matter, including: the right to a
7 hearing on all the allegations in the Statement of Reasons; the right to be represented by counsel
8 of his choice at his own expense; the right to confront and cross-examine the witnesses against
9 him; the right to present evidence and testify on his own behalf; the right to the issuance of
10 subpoenas to compel the attendance of witnesses and the production of documents; the right to
11 apply for reconsideration and court review of an adverse decision; and all other rights afforded by
12 the Act, the regulations adopted under the Act, and all other applicable state and federal laws,
13 including, without limitation, title 42 United States Code section 1983.

14 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
15 every right set forth in paragraph 6 above as it specifically pertains to this matter, withdraws his
16 request for a hearing on the Statement of Reasons, and agrees to be bound by this Stipulated
17 Settlement. Except as otherwise provided herein, Respondent further voluntarily, knowingly, and
18 intelligently waives any right to judicial, administrative, or other review of any matter related to
19 or covered by this Stipulated Settlement.

20 **STIPULATED ADMISSIONS**

21 8. Respondent admits to the truth of the following facts, and warrants, represents, and
22 agrees that each is true, accurate, and complete:

23 a. One or more times in and prior to March 2018, Respondent played one or more
24 controlled games with the Casino's money while working in his capacity as a key
25 employee. Respondent supervised or directed other Casino employees to do the same.
26 Respondent also caused the Casino to stake games. The Casino staked employees with its
27 money to play in poker games. The Casino would then recover the stakes it put at risk, as
28 well as all the employees' winnings, if employees won. The Casino would absorb all the

1 losses of its stakes if the employees lost in playing the poker games. Losses of Casino
2 money by Respondent and other Casino employees were recorded on the Casino's books
3 as "house win" and wins with Casino money were reported as revenue. Respondent
4 admits that this conduct violated the Act. In mitigation, he avers that he did not
5 intentionally violate the Act as the activity in question predated Respondent's employment
6 as a key employee and he was under the mistaken impression that it was not improper.
7 When Respondent was notified by Bureau staff, the activity was immediately stopped.

8 b. On August 10, 2016, and again on August 30, 2017, Bureau staff visited the
9 Casino and found no key employee on site, as required by statute and regulation.
10 Respondent appeared on site at the Casino after Bureau staff inquired regarding a key
11 employee. Respondent admits that this conduct violated the Act and regulations. In
12 mitigation, Respondent avers that due to staffing shortages, he at times left the Casino for
13 short periods of time during operating hours to take care of the Casino's business. After
14 the Casino received a letter of warning dated August 10, 2016 from the Bureau for this
15 issue, Respondent initiated a policy at the Casino that no table could be open during the
16 time when neither he nor another key employee was present.

17 c. In March 2018, Bureau staff requested video surveillance recordings for the
18 Casino from Respondent. Respondent avers that he was unable to immediately provide
19 the requested video surveillance recordings due to the Casino's old surveillance system
20 that was slow to download the video recordings. He later provided Bureau staff
21 surveillance recordings that were not responsive to the request. Responsive surveillance
22 recordings were never provided to the Bureau. Respondent admits that this conduct
23 violated the Act and regulations. In mitigation, Respondent avers that after having trouble
24 with the surveillance system, he caused the Casino to install a new and updated
25 surveillance system so that no issues with the surveillance system would recur.
26 Respondent avers he did provide surveillance recordings that he thought were responsive
27 to the request from the Bureau.
28

1 d. In March 2018, Respondent was standing at a poker table speaking with a
2 player who then handed him cash. Respondent took the cash, walked to a counter within
3 the Casino, placed the cash in a drawer, and then retrieved two racks of poker chips from
4 the same area. Respondent then carried the chips to the poker table and placed them in
5 front of the player that gave him the cash. During this action, Respondent did not use
6 keys to unlock any drawers before retrieving the chips. Respondent admits that this
7 conduct violated the Act and regulations.

8 e. In March 2018, another key employee left unattended chips on a
9 counter/check-in area and was using that area as a cashier cage in violation of regulations.
10 The third-party provider of proposition player services (third-party provider) player who
11 was playing one of the Casino's No Bust Blackjack games left the table for approximately
12 15 minutes on at least one occasion, but play continued with the dealer—i.e. a Casino
13 employee—taking over the third-party player duties and occupying the player-dealer
14 position. Respondent admits that this conduct violated the Act and regulations. In
15 mitigation, Respondent avers that after receiving a letter of warning from the Bureau
16 regarding the key employee leaving chips unattended on the counter and using the counter
17 as a cashier cage, Respondent caused the Casino to counsel the key employee on the
18 violation. Respondent also caused the Casino to direct the third-party provider not to
19 assign the player, involved in the incident, to the Casino. Respondent further caused the
20 Casino to terminate the dealer involved in the incident. The Casino also terminated the
21 third-party provider due to these activities and hired another third-party provider.

22 f. Respondent did not report any of the activity described in paragraphs 8a
23 through 8e above to the Bureau.

24 g. As of the date of the parties' signatures on this Stipulated Settlement, the
25 Casino remains closed and has been closed since March 2020 due to the COVID-19
26 pandemic. During that time, Respondent has not worked for Casino in any capacity that
27 requires a license, registration, approval, or permit issued by the Commission, the Bureau,
28 or the City of Marysville.

1 **STIPULATED AGREEMENT OF SETTLEMENT**

2 9. The foregoing admitted facts and any other admissions made by Respondent
3 herein are made for the purpose of resolving the Statement of Reasons and also are made to be
4 used in any other matter now and in the future involving the Commission or the Bureau.
5 Respondent admits, and agrees, that under the Act such facts provide a sufficient factual basis to
6 deny his renewal application for licensure and terminate his interim license.

7 10. Respondent understands and agrees that the admissions made in paragraphs 8 and
8 9 above may be entered into evidence in any legal proceeding brought or prosecuted by the
9 Commission or the Bureau as if those admissions were made under oath and penalty of perjury.
10 The admissions made by Respondent herein are only for the purposes of this proceeding, or any
11 future proceedings in which the Bureau, the Commission, or any successor agency is involved,
12 and shall not be otherwise admissible in any criminal, civil, or unrelated administrative
13 proceeding.

14 11. Upon the effective date of the Decision and Order issued by the Commission
15 adopting this Stipulated Settlement (Effective Date), Respondent's state key employee license
16 renewal application shall be denied. Upon the Effective Date, his interim renewal license
17 terminated pursuant to California Code of Regulations, title 4, section 12035, subdivision (b)(2).

18 12. Respondent agrees that for a period of three years following the Effective Date
19 (Ineligibility Period), he shall be deemed ineligible to hold any license, registration, or permit
20 issued by the Bureau or the Commission under the Act. Respondent further agrees that during the
21 Ineligibility Period, he shall not apply, directly or indirectly, for any license, registration, or
22 permit to be issued by the Bureau or the Commission under the Act or any other law relating to
23 gambling in the state, or for any activity that is under the Commission's, the Bureau's, or any
24 successor agency's jurisdiction.

25 a. Nothing in this Stipulated Settlement prohibits, prevents, or precludes
26 Respondent, during the Ineligibility Period, from applying for and holding a license,
27 registration, or work permit issued by a local jurisdiction with respect to controlled
28 gambling. Nothing in this Stipulated Settlement prevents or precludes the Bureau from

1 objecting to issuance of such license, registration, or work permit or otherwise notifying
2 the local jurisdiction of this Stipulated Settlement or the Commission's Decision and
3 Order during the Ineligibility Period. The Parties acknowledge and agree that a local
4 jurisdiction's determination to grant or deny an application for a license, registration, or
5 permit that Respondent may submit is subject to the ordinances and regulations adopted
6 by the local jurisdiction.

7 b. Respondent understands and acknowledges that even though he may apply for
8 licensure, registration, or permit, this Stipulated Settlement in no way assures that he will
9 be granted a license, registration, or permit by any local jurisdiction during the
10 Ineligibility Period or by the Bureau or Commission after the Ineligibility Period expires.

11 c. Respondent agrees that, during the Ineligibility Period, should he apply for a
12 license, registration, or work permit issued by a local jurisdiction with respect to
13 controlled gambling, he will notify the Bureau's Licensing Section of such application
14 within forty-eight (48) hours of submission.

15 d. Respondent further understands and acknowledges that in connection with any
16 future application after the Ineligibility Period expires: (1) he will have the burden of
17 establishing his suitability and qualification for licensure, registration, or permit; and (2)
18 the Bureau in making a recommendation and the Commission in making a decision on
19 Respondent's application may consider, among other things, (a) the denial arising from
20 this Stipulated Settlement, (b) the admissions contained in paragraphs 8 and 9 above, (c)
21 Respondent's activities and conduct both before and after the Effective Date, and (d) any
22 factors in mitigation he might present in connection with or in support of the application.

23 e. Respondent shall have the right, in connection with any future application, to
24 contend that the terms of this Stipulated Settlement sufficiently sanction the nature and
25 extent of Respondent's conduct through the Effective Date.

26 f. Nothing in this Stipulated Settlement shall estop, prevent, or preclude (1)
27 Respondent from applying to the Bureau or the Commission for licensure, registration, or
28 permit after the Ineligibility Period expires, or (2) the Bureau from recommending

1 approval or denial of, or the Commission from approving or denying, any such application
2 submitted by Respondent.

3 g. Notwithstanding the above, if Respondent remains compliant with the terms
4 and conditions of the Stipulated Settlement throughout the Ineligibility Period and
5 demonstrates that he is a person of good character, honesty, and integrity, the Stipulated
6 Admissions made by Respondent should not be the primary or only factor in a future
7 licensing recommendation by the Bureau and decision by the Commission.

8 13. The parties agree that this Stipulated Settlement fully resolves their dispute
9 concerning the Statement of Reasons.

10 14. This Stipulated Settlement shall be subject to adoption by the Commission.
11 Respondent understands and specifically agrees that counsel for the Complainant, and the
12 Bureau's staff, may communicate directly with the Commission regarding this Stipulated
13 Settlement, without notice to, or participation by, Respondent or his counsel, and that no such
14 communication shall be deemed a prohibited ex parte communication.

15 15. By signing this Stipulated Settlement, Respondent understands and agrees that he
16 may not withdraw his agreement or seek to rescind the Stipulated Settlement prior to the time the
17 Commission considers and acts upon it. If the Commission fails to adopt this Stipulated
18 Settlement as its Decision and Order, this Stipulated Settlement shall be of no force or effect and,
19 except for actions taken pursuant to this paragraph and paragraph 14 above, it shall be
20 inadmissible in any legal action between the parties. The Commission's consideration of this
21 Stipulated Settlement shall not disqualify it from any further action regarding Respondent's
22 licensure, including, but not limited to, disposition of the Statement of Reasons by a decision and
23 order following a hearing on the merits.


24 16. The parties agree that a photocopy, facsimile or electronic copy of this Stipulated
25 Settlement, including copies with signatures thereon, shall have the same force and effect as an
26 original.

1 17. In consideration of the above admissions and stipulations, the parties agree that the
2 Commission may, without further notice or formal proceeding, issue and enter the Decision and
3 Order adopting this Stipulated Settlement.

4 **RESPONDENT'S ACCEPTANCE**

5 Respondent has carefully read and considered the above Stipulated Settlement. Respondent
6 has discussed its terms and effects with legal counsel. Respondent understands the terms and
7 conditions in Stipulated Settlement, that his interim key employee license will terminate, and that
8 his license renewal application will be denied. Respondent enters into this Stipulated Settlement
9 voluntarily, knowingly, intelligently and upon the advice of counsel. Respondent agrees to be
10 bound by its terms.

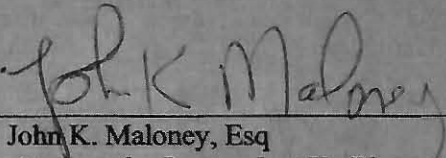
11
12 Dated: January 1, 2021



13 Va Phong
14 Respondent

15 Approved as to Form:

16 Dated: January 4, 2021




17 John K. Maloney, Esq
18 Attorney for Respondent Va Phong

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COMPLAINANT'S ACCEPTANCE

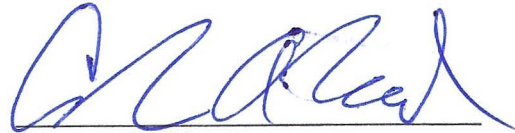
Dated: January 11, 2021


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

The foregoing Stipulated Settlement is hereby respectfully submitted for consideration by the California Gambling Control Commission.

Dated: January 14, 2021

XAVIER BECERRA
Attorney General of California
SARA J. DRAKE
Senior Assistant Attorney General
WILLIAM P. TORNGREN
Supervising Deputy Attorney General


COLIN A. WOOD
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Attorneys for the Complainant

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DECISION AND ORDER OF THE COMMISSION

The California Gambling Control Commission hereby adopts the foregoing Stipulated Settlement of the parties for the case of *In the Matter of the Statement of Reasons for Denial of Application for Renewal of Key Employee License for Va Phong*, CGCC Case No. CGCC-2020-0312-9, BGC Case No. BGC-HQ2019-00002AC, as its final Decision and Order in the matter to be effective upon execution below by its members.

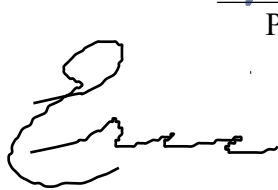
IT IS SO ORDERED

Dated: 3/25/21



Paula LaBrie, Chairperson

Dated: 3/25/2021



Eric C. Heins, Commissioner

Dated: 3/25/21



Edward Yee, Commissioner