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

14 **In the Matter of the Accusation Against:**
 15
 16 **ARISE, LLC (TPPP-000067) and**
 17 **DARRELL STUART MIERS (TPOW-**
 18 **000362), its Owner**
 19
 20 **Respondents.**

BGC Case No. HQ2015-00001AL
SETTLEMENT STIPULATION,
DECISION, AND ORDER

21 This Stipulated Settlement resolves the Accusation in the above-titled matter, as well as
 22 the California Gambling Control Commission’s (Commission) June 22, 2017 referral to an
 23 administrative hearing. Arise, LLC (Arise) is a limited liability company and is a licensed
 24 third-party provider of proposition player services (TPPPS). Darrell Stuart Miers (Miers) is
 25 Arise’s sole owner.¹ The Accusation seeks to discipline Respondents’ licenses by revocation or
 26 suspension 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.

27
 28 ¹ Arise and Miers are referred to collectively in this Stipulated Settlement as
 “Respondents” and, individually, as “Respondent.”

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PARTIES AND RESPONDENTS' APPLICATIONS

1. Wayne J. Quint, Jr. (former Director Quint), solely in his official capacity as the Director of the California Department of Justice, Bureau of Gambling Control (Bureau), brought the Accusation. Yolanda Morrow (Complainant) succeeded former Director Quint as the Bureau's Director. She is signing this Stipulated Settlement solely in her official capacity as the Bureau's Director.

2. Respondent Arise is a licensed third-party provider of proposition player services, License Number TPPP-000067. Its sole owner is Respondent Miers (License Number TPOW-000362); he is endorsed on Arise's license.

3. Respondents submitted applications to renew their licenses. The Bureau recommended that each application be denied. On June 22, 2017, the Commission referred each application to a hearing under the Administrative Procedure Act to be conducted by an administrative law judge. (Cal. Code Regs., tit. 4, § 12058.) The hearing was to be consolidated with the hearing on the Accusation. This Stipulated Settlement resolves the referral, as well as the Accusation.

4. The Commission issued, and each Respondent currently holds, an interim renewal license.

JURISDICTION

5. On May 15, 2017, the Accusation was served, along with a Statement to Respondent (Gov. Code, § 11505, subd. (b)), Request for Discovery (Gov. Code, § 11597.6), 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).

6. Respondents served timely Notices of Defense.

ADVISEMENT AND WAIVERS

7. Each Respondent has carefully reviewed, and has discussed with counsel, the legal and factual allegations in the Accusation and the Bureau's denial recommendation. Each Respondent has also carefully reviewed, and has discussed with counsel, this Stipulated

1 Settlement. Each Respondent fully understands the terms and conditions contained within this
2 Stipulated Settlement and the effects thereof.

3 8. Each Respondent is fully aware of his or its legal rights in this matter, including:
4 the right to a hearing on all the allegations in the Accusation and any pleading that would be
5 filed pursuant to the June 22, 2017 referral; the right to be represented by counsel of his or its
6 choice at his or its own expense; the right to confront and cross-examine the witnesses against
7 him or it; the right to present evidence and testify on his or its own behalf; the right to the
8 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
9 the right to apply for reconsideration and court review of an adverse decision; and all other
10 rights afforded by the California Administrative Procedure Act (Gov. Code, § 11370 et seq.),
11 the Act, and all other applicable state and federal laws, including, without limitation, title 42
12 United States Code section 1983.

13 9. Each Respondent voluntarily, knowingly, and intelligently waives and gives up
14 each and every right set forth in paragraph 8 above, agrees not to request a hearing on the
15 Accusation and the Commission’s June 22, 2017 referral, and agrees to be bound by this
16 Stipulated Settlement. Except as otherwise provided herein, each Respondent further
17 voluntarily, knowingly, and intelligently waives any right to judicial, administrative, or other
18 review of any matter related to or covered by this Stipulated Settlement.

19 **STIPULATED ADMISSIONS**

20 10. Each Respondent admits to the truth of the following facts, and warrants,
21 represents, and agrees that each fact is true, accurate, and complete:

22 a. On December 2, 2013, former Director Quint served Respondents with
23 an Accusation and Statement of Issues (Prior Pleading) in an administrative proceeding
24 (Prior Proceeding). The Prior Proceeding sought to discipline Respondents’
25 registrations and to deny their license applications for, among other things, (i) receiving
26 money from unlicensed funding sources and (ii) providing false or misleading
27 information to the Bureau. Former Director Quint and Respondents negotiated, and
28 agreed to, a proposed settlement in early December 2014. The Commission approved

1 settlement of the Prior Proceeding on March 12, 2015. That settlement provided the
2 following, among other things: (i) admissions to the allegations in the Prior Pleading;
3 (2) payment of a \$100,000 current fine; (3) reimbursement of \$37,500 in costs; (4) a
4 potential additional fine of \$150,000 in the event of default or failure to comply with the
5 Act or regulations adopted thereunder; and (5) approval and granting Respondents'
6 license applications.²

7 b. During the pendency of Respondents' license applications and settlement
8 negotiations with the Bureau, the Florida Division of Pari-Mutuel Wagering (Florida
9 Division) adopted regulations in July 2014 specifically allowing designated player
10 games in Florida card rooms. Respondent Miers personally financed Arise Gaming
11 Florida (Respondents' affiliate). On September 24, 2014, Respondents' affiliate began
12 performing designated players services in Florida, which required no gaming regulatory
13 approvals from the Florida Division. Further, the Florida regulations did not require
14 contracts with the card rooms for designated player services. On February 9, 2016, the
15 Florida Division sent a letter (Cease and Desist Letter) to Respondents' affiliate
16 directing it to cease performing as a designated player in Florida card rooms. The
17 Florida Division sent a copy of the Cease and Desist Letter to the Bureau. Receiving the
18 Cease and Desist Letter was the Bureau's first knowledge of Respondents' business
19 activities in Florida. On April 10, 2016, Respondents caused Respondents' affiliate to
20 comply with the Cease and Desist Letter and relinquished all interest and control of the
21 business through an orderly transition process.

22 c. At the time that they were funding and providing designated player
23 services through an affiliate in Florida, Respondents understood, and believed, that such
24 services were legal and allowed by the Florida Division's regulations. At the time of
25 settlement negotiations and agreement in the Prior Proceeding, Respondents'

26
27 ² Respondents complied fully with all the terms and provisions, including payment of
28 the cost reimbursement and current fine, of the settlement approved by the Commission in the
Prior Proceeding.

1 applications for licensure had already been submitted and were pending. Respondents
2 mistakenly believed that they had no duty to update their pending applications for the
3 then recent – post submission – business activities or disclose their Florida activities in
4 connection with their settlement negotiations with the Bureau.

5 d. Based upon their conclusions regarding their Florida activities,
6 Respondents did not update the Bureau with information regarding what they believed
7 to be lawful activities in Florida. Respondents acknowledge that information regarding
8 the designated player games in Florida should have been provided to the Bureau. Full
9 and complete disclosure of the designated player market in Florida would have provided
10 the Bureau with an understanding of those ostensibly lawful activities in Florida.³
11 Instead, the Bureau first learned of Respondents’ activities when it received the Cease
12 and Desist Letter⁴ regarding Respondents’ affiliate. The Bureau believes this
13 information was a material fact and should have been fully disclosed to the Bureau. If
14 this information was fully disclosed to the Bureau, the Bureau may have added
15 additional provisions to the settlement of the Prior Proceeding. Respondents, as
16 applicants for licensing and potential parties to a settlement, failed to meet their
17 statutory duty of full and true disclosure.

18 e. On July 17, 2019, the Bureau issued a Letter of Warning to Respondents
19 relating to their tipping policies and compliance with their TPPPS contracts. On August
20 16, 2019, Respondents submitted a corrective action plan to the Bureau, and the Bureau
21 sent a Letter of Acknowledgement on August 29, 2019.

22
23 ³ Designated players are specifically authorized by the rules of the Florida Division and
24 are defined as, “the player identified by the button as the player in the dealer position.” (Rule
25 61D11.00 (17), Florida Administrative Code (F.A.C.)) In November 2016 in a tribal-state
class III gaming compact dispute, a federal court held that the State of Florida allowed banked
games through designated players. (*Seminole Tribe v. Florida* (N.D.Fla. 2016) 219 F.Supp.3d
1177, 1184-1185.)

26 ⁴ The sanctioning authority of the Florida Division is limited to those unlawfully
27 operating a card room or violations by the card room or licensees of the law and administrative
28 rules imposed by the Florida Division. (See section 849.0861(15), Florida Statutes.) Since the
designated players are not card rooms or licensees, they are not subject to the Florida Division’s
sanctioning authority.

1 **STIPULATED AGREEMENT OF SETTLEMENT**

2 11. The foregoing admitted facts and any other admissions made by Respondents
3 herein are made for the purpose of resolving the Accusation and the matters raised in the
4 Bureau’s denial report and also are made to be used in any other matter now and in the future
5 involving the Commission or the Bureau. Each Respondent admits, and agrees, that under the
6 Act such facts provide a sufficient factual basis to discipline his or its license or to deny his or
7 its renewal application for licensure. Each Respondent further admits, and agrees, that such
8 facts establish that his or its license is subject to discipline and his or its license renewal
9 application is subject to denial.

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

17 13. Upon the effective date of the Decision and Order issued by the Commission
18 adopting this Stipulated Settlement (Effective Date), Respondents’ pending license renewal
19 applications will be granted, and their licenses renewed. Immediately following license renewal
20 as described in this paragraph 13, Respondents’ licenses shall be suspended for 24 months
21 (Suspension Period). The licenses’ suspensions shall be stayed provided that Respondents,
22 jointly and severally, perform and comply with each and every condition and term of this
23 Stipulated Settlement. If the licenses’ suspensions remain stayed in accordance with this
24 paragraph 13 for the entire Suspension Period, the licenses’ suspensions shall be deemed
25 satisfied and shall expire without any further order by the Commission.

26 14. Respondents, jointly and severally, agree to pay the Bureau a penalty in the
27 amount of \$90,000 (Penalty) for the acts and omissions alleged in the Accusation, stated in the
28 Bureau’s denial recommendation, and admitted to in paragraph 10 above. Respondents further

1 agree that the Penalty shall be paid in full in accordance with this Stipulated Settlement. The
2 Penalty will be deposited in accordance with Business and Professions Code section 19950,
3 subdivision (a). In addition to and as part of their waivers set forth in paragraphs 8 and 9 above,
4 each Respondent expressly, voluntarily, and knowingly waives any privilege or right available
5 under, or conferred by, Government Code section 11522.

6 15. Respondents, jointly and severally, agree to pay the Bureau the sum of \$10,000
7 (Cost Recovery) as the reasonable costs of investigation and prosecution of this matter as
8 provided for in Business and Professions Code section 19930. Respondents further agree that
9 the Cost Recovery shall be paid in full in accordance with this Stipulated Settlement. The Cost
10 Recovery will be paid, and will be deposited, in accordance with Business and Professions
11 Code sections 19930, subdivision (e), and 19950, subdivision (a).

12 16. Respondents agree to pay a minimum payment toward the total Penalty and Cost
13 Recovery by the 15th of each month beginning the first month following the Effective Date.
14 The minimum payment to the Bureau shall be \$4,166.66 for a period of 24 months at which
15 time the total Penalty and Cost Recovery due to the Bureau will be paid in full.

16 17. During the Suspension Period, Respondents shall meet, or perform, the
17 following conditions:

18 a. Within five days of entering into any letter of intent or agreement,
19 whether directly or indirectly through an affiliate, with a person or entity licensed or
20 registered under the Act or an affiliate of such person or entity, Respondents shall report
21 in writing such agreement to the Bureau and provide copies of written documents
22 evidencing, summarizing, or memorializing the letter of intent or agreement. This
23 paragraph 17a will not apply to usual employment agreements entered into with players
24 and supervisors in the ordinary course of Respondents' business.

25 b. Within five days of deciding to engage in or conduct any gambling-
26 related business, whether directly or indirectly through an affiliate, irrespective of
27 whether the business will be conducted in California or in another state or foreign
28 country, Respondents shall report in writing such decision to the Bureau and provide

1 information sufficient to (i) describe the nature of business to be engaged in or
2 conducted, (ii) identify each and every person or entity involved in the management or
3 ownership of such business, and (iii) state the investment, or anticipated investment, of
4 each person or entity identified.

5 c. Within five days of entering into any letter of intent or agreement,
6 whether directly or indirectly through an affiliate, to provide financing, loan monies, or
7 extend credit to any person or entity licensed or registered under the Act or an affiliate
8 of such person or entity, Respondents shall report in writing such agreement to the
9 Bureau and provide copies of all written documents evidencing, summarizing, or
10 memorializing the letter of intent or agreement.

11 d. Within five days of entering into any letter of intent or agreement,
12 whether directly or indirectly through an affiliate, to obtain financing, borrow monies, or
13 receive an extension of credit from any person or entity that is licensed or registered or
14 should be licensed or registered under the Act or an affiliate of such person or entity,
15 Respondents shall report in writing such agreement to the Bureau and provide copies of
16 all written documents evidencing, summarizing, or memorializing the letter of intent or
17 agreement.

18 e. Respondents shall comply in all material respects with the Act, the
19 regulations adopted under the Act, and the California Penal Code, as well as any federal
20 statutes, local ordinances, and federal and local regulations governing gambling or the
21 operation of gambling establishments. This includes, without limitation, strictly
22 complying with the regulations governing TPPPS contracts and the specification of any
23 tipping arrangements.

24 f. Respondents shall bear all costs relating to complying with the terms set
25 forth in this Stipulated Settlement.

26 g. Notwithstanding the above, the Bureau is aware that Respondent Miers is
27 currently involved with e-sports activities in California, and such activities have been
28 previously disclosed to the Bureau. As disclosed by Respondent Miers, those activities

1 do not involve gambling. If the e-sports activities at some point in the future require
2 regulatory approvals in California, Respondent Miers will immediately comply with all
3 requirements necessary to continue to lawfully engage in e-sports activities or in the
4 alternative will immediately cease such activities. The Bureau or the Department of
5 Justice may take whatever action it determines is appropriate under the Act, the
6 regulations adopted under the Act, or the law, including, without limitation, issuing an
7 emergency order or seeking revocation of Respondents' licenses if Respondent Miers
8 fails to comply with newly regulated e-sports activities in California.

9 18. Each Respondent has been advised, and therefore understands and
10 acknowledges, that upon the Effective Date, his or its interim renewal license will cease to be
11 valid and will be automatically canceled. (Cal. Code Regs., tit. 4, § 12035, subd. (c)(2).)

12 19. Respondents agree that a default shall occur under this Stipulated Settlement if
13 they (a) fail to pay the Penalty or the Cost Recovery when due or (b) fail otherwise to comply
14 with any term of this Stipulated Settlement.

15 20. Respondents agree that upon a default, any license issued by the Commission to
16 them shall be deemed to be suspended automatically and immediately and shall be of no effect
17 for the remainder of the Suspension Period. Each Respondent expressly waives any right to
18 hearing with respect to, or arising out of, any license suspension based upon a default in paying
19 the Penalty, the Cost Recovery, or based upon the allegations of the Accusation that are
20 admitted to in paragraphs 10 and 11 above. The parties understand and acknowledge that
21 Respondents may request a hearing as to any other basis for default.

22 21. The parties agree that this Stipulated Settlement fully resolves their dispute
23 concerning the Accusation and the Commission's June 22, 2017 referral, and that, except upon
24 default, no further discipline, including revocation or suspension, shall be sought against
25 Respondents based solely upon the allegations contained within the Accusation or the Bureau's
26 denial recommendation.

27 22. This Stipulated Settlement shall be subject to adoption by the Commission.
28 Each Respondent understands and specifically agrees that counsel for the Complainant, and the

1 Bureau's staff, may communicate directly with the Commission regarding this Stipulated
2 Settlement, without notice to, or participation by, Respondents or their counsel, and that no such
3 communication shall be deemed a prohibited ex parte communication. Each Respondent
4 specifically acknowledges and agrees that such communications are permissible pursuant to
5 Government Code section 11430.30, subdivision (b).

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

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

18 25. In consideration of the above admissions and stipulations, the parties agree that
19 the Commission may, without further notice or formal proceeding, issue and enter the Decision
20 and Order adopting this Stipulated Settlement.

21 [SIGNATURES ON NEXT PAGE]
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ACCEPTANCE

Each Respondent has carefully read and considered the above Stipulated Settlement. Each Respondent has discussed its terms and effects with legal counsel. Each Respondent also understands the Stipulated Settlement and the effects it will or may have on Respondents' licenses issued by the Commission. Each Respondent further understands that its or his state gambling license will be suspended for 24 months subject to a stay and conditions. Each Respondent further understands that it or he will be obligated to pay the Bureau a total sum of \$100,000 (\$90,000 in Penalty and \$10,000 in Cost Recovery) and that the failure to pay any portion of that amount when due, or to abide by the conditions and terms of the Stipulated Settlement, could result in lifting the stay and suspension of its or his state gambling license. Each Respondent enters into this Stipulated Settlement voluntarily, knowingly and intelligently, and agrees to be bound by its terms.

Dated: September 27, 2023



Darrell S. Miers
Respondent

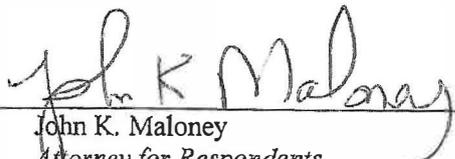
Dated: September 27, 2023

By 

Its Managing Member
Respondent

Approved as to Form:

Dated: September 27, 2023

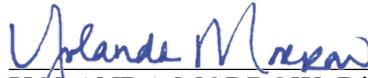


John K. Maloney
Attorney for Respondents

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COMPLAINANT’S ACCEPTANCE

Dated: October 04, 2023



YOLANDA MORROW, 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: October 6, 2023

ROB BONTA
Attorney General of California
T. MICHELLE LAIRD
Acting Senior Assistant Attorney General



LISA L. FREUND
Deputy Attorney General
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 Accusation Against: Arise, LLC, et al.*, BGC Case No. HQ2015-00001AL, as its final Decision and Order in the matters to be effective upon execution below by its members.

IT IS SO ORDERED

Dated: 12/21/2023

DocuSigned by:

38D0AB38C651466...
Paula LaBrie, Chair

Dated: 12/21/2023

DocuSigned by:

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Cathleen Galgiani, Commissioner

Dated: 12/21/2023

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Eric Heins, Commissioner

Dated: 12/21/2023

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William Liu Commissioner

Dated: 12/21/2023

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Edward Yee, Commissioner