

1 XAVIER BECERRA
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 T. MICHELLE LAIRD
Supervising Deputy Attorney General
4 PARAS HRISHIKESH MODHA
Deputy Attorney General, SBN 215761
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 270-7777
7 Fax: (916) 327-2319
E-mail: Paras.Modha@doj.ca.gov
8 *Attorneys for Complainant*



9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Statement of Reasons for
Denial of Application for a Key Employee
License and Initial Regular Work Permit:

BRIAN RICHARD YEE
[REDACTED]

Respondent

CGCC Case Nos: CGCC-2018-0906-4B
CGCC-2019-0411-5B

BGC Case No. BGC-HQ2018-00053SL

STATEMENT OF REASONS

Complainant alleges as follows:

PARTIES

- Stephanie Shimazu (Complainant) brings this Statement of Reasons for a denial of applications for a key employee license and initial regular work permit solely in her official capacity as the Director of the California Department of Justice, Bureau of Gambling Control (Bureau).
- On September 2, 2016, the Bureau received an interim key employee license application from Brian Richard Yee (Respondent). On September 12, 2016, the California

1 Gambling Control Commission (Commission) issued an interim key employee license, number
2 GEKE-002244, to Respondent with an expiration date of September 30, 2018.¹

3 3. On or about September 2, 2016, the Bureau received Respondent's Application for
4 Gambling Establishment Key Employee License and his Key Employee Supplemental
5 Background Investigation Information, with attached schedules, dated August 30, 2016,
6 (collectively, Key Employee Application).

7 4. On or about July 17, 2018, the Bureau submitted a Cardroom Key Employee
8 Background Investigation Report to the Commission recommending Respondent's Key Employee
9 Application be denied.

10 5. On or about July 27, 2018, Respondent's interim key employee license was cancelled
11 by the Commission pursuant to California Code of Regulations, title 4, section 12354, subdivision
12 (e)(5),² because, as alleged above, the Bureau recommends denial of Respondent's Key Employee
13 Application.³

14 6. On or about February 2, 2018, the Bureau received Respondent's Application for
15 Initial Regular Work Permit/Temporary Work Permit and Work Permit Questionnaire, both dated
16 January 30, 2018, (collectively, Work Permit Application) to allow his employment as a dealer at
17 Napa Valley Casino.

18 7. On or about February 20, 2018, Respondent was issued a temporary work permit by
19 the Commission, number GEWP-002711.

20
21
22
23 ¹ This interim key employee license application allowed for Respondent's employment as
24 a key employee at Napa Valley Casino, a licensed gambling establishment located in American
Canyon, California, while his application for an initial key employee license was being processed.

25 ² The statutes and regulations applicable to this Statement of Reasons are quoted in
pertinent part in Appendix A.

26 ³ In its letter to Respondent dated January 10, 2017, the Commission notified Respondent
27 that "[n]otwithstanding the cancellation of your Interim Key Employee License, the Commission
28 will consider your application for an Initial Key Employee License at a future Commission
meeting."

1 (Bus. & Prof. Code, §§ 19806, 19856, 19857, 19859, subd. (a), 19866 & 19914; Pen. Code, §§
2 330, 337a, subd. (a)(6) & 336.9; Cal. Code Regs, tit. 4, §§ 12355, subds. (a), (b)(2) & (c), 12105,
3 subds. (a) & (e), & 12568, subds. (a)(5), (b)(4), (c)(3) & (c)(4).)

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 **(Material Misrepresentation Regarding Prior Ownership of Entities)**

6 15. Respondent's Key Employee Application and Work Permit Application are subject to
7 denial⁵ in that in a written statement dated October 26, 2017, Respondent provided false or
8 misleading statements to the Bureau about when he ceased his unlawful online gambling activities.
9 Respondent stated to the Bureau that he ceased his online-gambling activities in October of 2015;
10 in fact, records of his online gambling activity show that he continued to gamble online until at
11 least July of 2016.

12 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) [mandatory denial] & (b)
13 [mandatory denial], 19866 & 19914; Cal. Code Regs, tit. 4, §§ 12355, subds. (a), (b)(2) & (c),
14 12105, subds. (a) & (e), & 12568, subds. (a)(5), (b)(4), (c)(3) & (c)(4).)

15 **PRAYER**

16 WHEREFORE, Complainant requests that following the hearing to be held on the matters
17 herein alleged, the Commission issue a decision:

- 18 1. Denying Respondent's Application for Gambling Establishment Key Employee
19 License;
20 2. Denying Respondent's Application for Initial Regular Work Permit/Temporary Work
21 Permit; and

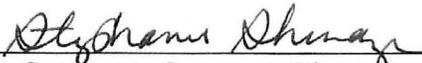
22 _____
23 (...continued)
24 found to be unqualified or disqualified for licensure under any of the criteria found in Business and
25 Professions Code sections 19857, subdivisions (a) or (b), or 19859. (Cal. Code. Regs., tit. 4, §
26 12355, subd. (a)(1); see also, Bus. & Prof. Code, § 19823, Cal. Code. Regs., tit. 4, § 12568, subds.
27 (c)(3) & (c)(4).) Respondent's Work Permit Application is subject to mandatory denial if
28 Respondent is found to be unqualified or disqualified for licensure under any of the criteria found
in Business and Professions Code sections 19857, subdivisions (a) or (b), or 19859. (Cal. Code.
Regs., tit. 4, § 12105, subds. (a)(1) & (a)(2); see also, Bus. & Prof. Code, § 19823, Cal. Code.
Regs., tit. 4, § 12568, subds. (c)(3) & (c)(4).)

⁵ See footnote 4, *supra*.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Dated: May 15, 2019


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

APPENDIX A
JURISDICTION

- 1
2
3 1. Business and Professions Code section 19811, subdivision (b), provides:

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

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

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

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

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

23 (b) For the purposes of this section, "unqualified person"
24 means a person who is found to be unqualified pursuant to the criteria
25 set forth in Section 19857, and "disqualified person" means a person
26 who is found to be disqualified pursuant to the criteria set forth in
27 Section 19859.

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

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

* * *

 (b) For any cause deemed reasonable by the commission, deny
any application for a license, permit, or approval provided for in this
chapter or regulations adopted pursuant to this chapter, limit, condition,
or restrict any license, permit, or approval, or impose any fine upon any

1 person licensed or approved. The commission may condition, restrict,
2 discipline, or take action against the license of an individual owner
3 endorsed on the license certificate of the gambling enterprise whether
4 or not the commission takes action against the license of the gambling
5 enterprise.

6 * * *

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

10 4. Business and Professions Code section 19854, subdivisions (a) and (b) provide:

11 (a) Every key employee shall apply for and obtain a key
12 employee license.

13 (b) No person may be issued a key employee license unless the
14 person would qualify for a state gambling license.

15 5. Business and Professions Code section 19870 provides:

16 (a) The commission, after considering the recommendation of
17 the chief and any other testimony and written comments as may be
18 presented at the meeting, or as may have been submitted in writing to
19 the commission prior to the meeting, may either deny the application or
20 grant a license to an applicant who it determines to be qualified to hold
21 the license.

22 (b) When the commission grants an application for a license or
23 approval, the commission may limit or place restrictions thereon as it
24 may deem necessary in the public interest, consistent with the policies
25 described in this chapter.

26 (c) When an application is denied, the commission shall prepare
27 and file a detailed statement of its reasons for the denial.

28 (d) All proceedings at a meeting of the commission relating to a
license application shall be recorded stenographically or by audio or
video recording.

(e) A decision of the commission denying a license or approval,
or imposing any condition or restriction on the grant of a license or
approval may be reviewed by petition pursuant to Section 1085 of the
Code of Civil Procedure. Section 1094.5 of the Code of Civil
Procedure shall not apply to any judicial proceeding described in the
foregoing sentence, and the court may grant the petition only if the

1 court finds that the action of the commission was arbitrary and
2 capricious, or that the action exceeded the commission's jurisdiction.

3 6. Business and Professions Code section 19871 provides:

4 (a) The commission meeting described in Section 19870 shall
5 be conducted in accordance with regulations of the commission and as
6 follows:

7 (1) Oral evidence shall be taken only upon oath or
8 affirmation.

9 (2) Each party shall have all of the following rights:

10 (A) To call and examine witnesses.

11 (B) To introduce exhibits relevant to the issues of
12 the case.

13 (C) To cross-examine opposing witnesses on any
14 matters relevant to the issues, even though the matter was
15 not covered on direct examination.

16 (D) To impeach any witness, regardless of which
17 party first called the witness to testify.

18 (E) To offer rebuttal evidence.

19 (3) If the applicant does not testify in his or his own
20 behalf, he or she may be called and examined as if under cross-
21 examination.

22 (4) The meeting need not be conducted according to
23 technical rules relating to evidence and witnesses. Any relevant
24 evidence may be considered, and is sufficient in itself to support a
25 finding, if it is the sort of evidence on which responsible persons
26 are accustomed to rely in the conduct of serious affairs, regardless
27 of the existence of any common law or statutory rule that might
28 make improper the admission of that evidence over objection in a
civil action.

(b) Nothing in this section confers upon an applicant a right to
discovery of the department's^[6] investigative reports or to require

⁶ Hereinafter, "department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 disclosure of any document or information the disclosure of which is
2 otherwise prohibited by any other provision of this chapter.

3 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

4 7. Business and Professions Code section 19806 provides in part:

5 Nothing in this chapter shall be construed in any way to permit or
6 authorize any conduct made unlawful by Chapter 9 (commencing with
7 Section 319) of, or Chapter 10 (commencing with Section 330) of, Title
8 9 of Part 1 of the Penal Code, or any local ordinance.

8 8. Business and Professions Code section 19856, subdivision (a) provides in part:

9 The burden of proving his or his qualifications to receive any
10 license is on the applicant.

11 9. Business and Professions Code section 19857 provides in part:

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

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

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

23 10. 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 chapter or requested 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 to a material fact pertaining to the qualification criteria.

11. Business and Professions Code section 19914 provides in part:

1 (a) The commission may revoke a work permit or, if issued by
2 the licensing authority of a city, county, or city and county, notify the
3 authority to revoke it, and the licensing authority shall revoke it, if the
4 commission finds, after a hearing, that a gambling enterprise employee
5 or independent agent has failed to disclose, misstated, or otherwise
6 misled the department or the commission with respect to any fact
7 contained in any application for a work permit, or if the commission
8 finds that the employee or independent agent, subsequent to being
9 issued a work permit, has done any of the following:

10 (1) Committed, attempted, or conspired to do any acts
11 prohibited by this chapter.

12 (2) Engaged in any dishonest, fraudulent, or unfairly
13 deceptive activities in connection with controlled gambling, or
14 knowingly possessed or permitted to remain in or upon any
15 premises any cards, dice, mechanical devices, or any other
16 cheating device.

17 (3) Concealed or refused to disclose any material fact in
18 any investigation by the department.

19 (4) Committed, attempted, or conspired to commit, any
20 embezzlement or larceny against a gambling licensee or upon the
21 premises of a gambling establishment.

22 (5) Been convicted in any jurisdiction of any offense
23 involving or relating to gambling.

24 (6) Accepted employment without prior commission
25 approval in a position for which he or she could be required to be
26 licensed under this chapter after having been denied a license or
27 after failing to apply for licensing when requested to do so by the
28 commission.

(7) Been refused the issuance of any license, permit, or
approval to engage in or be involved with gambling or parimutuel
wagering in any jurisdiction, or had the license, permit, or
approval revoked or suspended.

(8) Been prohibited under color of governmental authority
from being present upon the premises of any licensed gambling
establishment or any establishment where parimutuel wagering is
conducted, for any reason relating to improper gambling activities
or any illegal act.

(9) Been convicted of any felony.

(b) The commission shall revoke a work permit if it finds, after

1 hearing, that the holder thereof would be disqualified from holding a
2 state gambling license for the reasons specified in subdivision (f) or (g)
3 of Section 19859 .

4 (c) Nothing in this section shall be construed to limit any powers
5 of the commission with respect to licensing.

6 12. California Code of Regulations, title 4, section 12054, subdivision (a), provides:

7 (a) At a non-evidentiary hearing meeting, the Commission may
8 take, but is not limited to taking, one of the following actions:

9 (1) Issue a license, temporary license, interim license,
10 registration, permit, finding of suitability, renewal or other
11 approval.

12 (2) Elect to hold an evidentiary hearing in accordance with
13 Section 12056 and, when for a renewal application, issue an
14 interim renewal license pursuant to Section 12035. The
15 Commission shall identify those issues for which it requires
16 additional information or consideration related to the applicant's
17 suitability.

18 (3) Table or continue an item for consideration at a
19 subsequent meeting, for any purpose, including obtaining new or
20 additional information from the applicant, Bureau or Commission
21 staff, provided however in the case of renewals, the Commission
22 must act on the application before the license expires.

23 (4) Extend a license for up to 180 calendar days as
24 necessary, as provided in Business and Professions Code section
25 19876, subdivision (c).

26 (5) Approve or deny a request for withdrawal pursuant to
27 Section 12015.

28 (6) Make a finding of abandonment pursuant to subsection
(c) of Section 12017.

(7) If the Bureau has filed an accusatory pleading with the
Commission pursuant to Business and Professions Code section
19930 prior to Commission action on a renewal application, the
Commission shall issue an interim renewal license pursuant to
Section 12035.

13. California Code of Regulations, title 4, section 12060, provides:

1 (a) If the Executive Director determines it is appropriate, he or
2 she may set an application for consideration at a GCA hearing in
3 advance of a meeting pursuant to Section 12054. The Executive
4 Director shall give notice to the applicant, pursuant to paragraph (2)
5 subsection (c) of Section 12052, to the Office of the Attorney General,
6 and to the Bureau no later than 90 calendar days in advance of the GCA
7 hearing. The Executive Director's determination will be based on
8 information contained in the Bureau's report or other appropriate
9 sources including, without limitation, a request from the Bureau or
10 applicant as well as the Commission's operational considerations. The
11 Commission retains the authority to refer the matter to an APA hearing
12 pursuant to subsection (a) of Section 12056 or hear the matter at a
13 Section 12054 meeting if the Commission deems it appropriate.

9 (b) When the Commission has elected to hold a GCA hearing,
10 the Executive Director shall give notice to the applicant, pursuant to
11 paragraph (2) subsection (c) of Section 12052, to the Office of the
12 Attorney General, and to the Bureau no later than 60 calendar days in
13 advance of the GCA hearing.

13 (c) The presiding officer shall have no communication with the
14 Commission or Commission staff upon the merits, or upon information
15 or documents related to the application prior to the evidentiary hearing.
16 The Executive Director shall designate a presiding officer which shall
17 be:

- 16 (1) A member of the Commission's legal staff; or,
- 17 (2) An Administrative Law Judge.

17 (d) The applicant or the complainant, or the applicant and the
18 complainant, may request a continuance in writing to the Executive
19 Director stating the reason for the continuance and any proposed future
20 hearing dates. The Executive Director or Commission may approve the
21 request.

21 (e) The complainant shall provide to the applicant, at least 45
22 calendar days prior to the GCA hearing, and the applicant shall provide
23 to the complainant, at least 30 calendar days prior to the GCA hearing,
24 the following items:

- 23 (1) A list of potential witnesses with the general subject
24 of the testimony of each witness;
- 25 (2) Copies of all documentary evidence intended to be
26 introduced at the hearing and not previously provided;
- 27 (3) Reports or statements of parties and witnesses, if
28 available; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(4) All other written comments or writings containing relevant evidence.

(f) A presiding officer shall rule on the admissibility of evidence and on any objections raised except for objections raised under subsection (g). A ruling by the presiding officer shall be final.

(1) In advance of the GCA hearing, upon a motion of a party or by order of the presiding officer, the presiding officer may conduct a pre-hearing conference, either in person, via teleconference, or by email exchange, subject to the presiding officer's availability and shall issue a prehearing order if appropriate or requested by either party. The prehearing conference and order may address the following:

- (A) Evidentiary issues;
- (B) Witness and exhibit lists;
- (C) Alterations in the Bureau recommendation;
- (D) Stipulation for undisputed facts including the admission of the Bureau's report; and
- (E) Other issues that may be deemed appropriate to promote the orderly and prompt conduct of the hearing.

(2) The GCA hearing need not be conducted according to technical rules of evidence. Any relevant evidence may be considered, and is sufficient in itself to support findings if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of that evidence over objection in a civil action.

(g) The Commission may, at any time upon a showing of prejudice by the objecting party:

- (1) Prohibit the testimony of any witness or the introduction of any documentary evidence that has not been disclosed pursuant to subsection (e); or
- (2) Continue any meeting or hearing as necessary to mitigate any prejudice.

(h) The complainant shall present all facts and information in the Bureau report, if any, and the results of the Bureau's background investigation, and the basis for any recommendation, if the Bureau filed one with the Commission according to Business and Professions Code

1 section 19868, to enable the Commission to make an informed decision
2 on whether the applicant has met his, his, or its burden of proof. The
3 complainant may but is not required to recommend or seek any
particular outcome during the evidentiary hearing, unless it so chooses.

4 (i) The burden of proof is on the applicant at all times to prove
5 his, his, or its qualifications to receive any license or other approval
under the Act.

6 (j) The applicant may choose to represent himself, herself, or
7 itself, or may retain an attorney or lay representative.

8 (k) Except as otherwise provided in subsection (g), the
9 complainant and applicant shall have the right to call and examine
10 witnesses under oath; to introduce relevant exhibits and documentary
11 evidence; to cross-examine opposing witnesses on any relevant matter,
12 even if the matter was not covered in direct examination; to impeach
any witness, regardless of which party first called the witness to testify;
and to offer rebuttal evidence. If the applicant does not testify on his,
his or its own behalf, the applicant may be called and examined, under
oath, as if under cross-examination.

13 (l) Oral evidence shall be taken upon oath or affirmation,
14 which may be administered by the Executive Director, a member of the
15 Commission, or the presiding officer, if an Administrative Law Judge.

16 (m) At the conclusion of the evidentiary hearing, the members
17 of the Commission shall take the matter under submission, may discuss
18 the matter in a closed session meeting, and may schedule future closed
session meetings for deliberation.

19 14. California Code of Regulations, title 4, section 12105, subds. (a) and (e), provide:

20 (a) An application for a work permit shall be denied by the
21 Commission if either of the following applies:

22 (1) The applicant meets any of the criteria for mandatory
23 disqualification under Business and Professions Code section
19859.

24 (2) The applicant is found unqualified pursuant to the
25 criteria set forth in subdivisions (a) or (b) of Business and
Professions Code section 19857.

26 * * *

27 (e) The provisions of Business and Professions Code sections
28 19857, 19859, and 19914, subdivision (a) shall be deemed incorporated

1 by reference into this regulation for the purposes set forth in this
2 section. For the purposes of this section, the criteria incorporated by
3 reference in these regulations from Business 214 and Professions Code
4 section 19914, subdivision (a), apply to conduct or events occurring
5 prior to the filing of an application for a work permit.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15. California Code of Regulations, title 4, section 12354, subdivision (e)(5), provides:

(e) With ten day's advance written notice to the interim key employee and to the gambling enterprise, the Executive Director shall cancel the interim key employee license based upon the following.

* * *

(5) A Bureau recommendation of denial of the applicant's key employee application.

16. California Code of Regulations, title 4, section 12355, subs. (a)(1), (b)(2)(A), and (c), provide:

(a) An application for a portable personal key employee license shall be denied by the Commission if any of the following applies.

(1) The Commission finds that the applicant is ineligible, unqualified, disqualified, or unsuitable pursuant to the criteria set forth in the Act or other applicable law or that granting the license would be inimical to public health, safety, welfare, or would undermine the public trust that gambling operations are free from criminal or dishonest elements.

(b) An application for a key employee license may be denied if:

(2) The Commission finds that the applicant's past behavior calls into question the applicant's qualification requirements and considerations outlined in Business and Professions Code section 19856.

* * *

(c) The grounds for denial set forth in this section apply in addition to any grounds prescribed by statute or any grounds that would support revocation under chapter 10 of these regulations.

17. California Code of Regulations, title 4, section 12568, subs. (a)(5) and (b)(4), provide:

1 (a) A license for an individual or any finding of suitability or
2 approval granted by the Commission, other than a work permit, and an
3 owner license for a gambling establishment if the owner licensee has
4 committed a separate violation from any violations committed by the
5 gambling establishment shall be subject to a minimum discipline of
6 suspension for one day of normal business operation and a maximum
7 discipline of revocation, which may be stayed on terms and conditions
8 and any monetary penalty as described in Section 12554(d)(7) of this
9 chapter, if the Commission finds that the holder has:

7 (5) Committed any act punishable as a crime, not otherwise
8 listed in these disciplinary guidelines, which substantially relates
9 to the duties and qualifications of the licensee or registrant, or
10 which occurred in a gambling establishment or the associated
11 adjacent property, or

10 ***

11 (b) A license, finding of suitability, or approval granted by the
12 Commission, other than a work permit, and an owner license for a
13 gambling establishment if the owner licensee has committed a separate
14 violation from any violations committed 389 by the gambling
15 establishment shall be subject to a minimum discipline of suspension
16 for five days of normal scheduled work and a maximum discipline of
17 revocation, which may be stayed on terms and conditions and any
18 monetary penalty as described in Section 12554(d)(7) of this chapter, if
19 the Commission finds that the holder has:

17 (4) Committed an act prohibited by Chapter 9 (commencing
18 with section 319) and Chapter 10 (commencing with section 330)
19 of Title 9 of Part 1 of the Penal Code, including but not limited to
20 operation of a banked or percentage game (Penal Code, section
21 330), possession or sale of a slot machine (Penal Code, section
22 330b) or agreement for slot machine payout (Penal Code, section
23 330.1), bookmaking (Penal Code, section 337), and cheating
24 (Penal Code, section 337x),

23 18. California Code of Regulations, title 4, section 12568, subds. (c)(3) and (c)(4),
24 provide:

25 (c) A state gambling license, finding of suitability, or approval
26 granted by the Commission, other than a work permit, and an owner
27 license for a gambling establishment if the owner licensee has
28 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:

1 * * *

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

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

8 19. Penal Code section 186.2, subd. (a)(8) provides:

9 For purposes of this chapter, the following definitions apply:

10 (a) "Criminal profiteering activity" means any act committed or
11 attempted or any threat made for financial gain or
12 advantage, which act or threat may be charged as a crime
under any of the following sections:

13 ***

14 (8) Gambling, as defined in Sections 337a to 337f,
15 inclusive, and Section 337i, except the activities of a
16 person who participates solely as an individual bettor.

17 20. Penal Code section 330 provides:

18 Every person who deals, plays, or carries on, opens, or causes to
19 be opened, or who conducts, either as owner or employee, whether for
20 hire or not, any game of faro, monte, roulette, lansquenet, rouge et
21 noire, rondo, tan, fan-tan, seven-and a-half, twenty-one, hokey-pokey,
22 or any banking or percentage game played with cards, dice, or any
23 device, for money, checks, credit, or other representative of value, and
every person who plays or bets at or against any of those prohibited
24 games, is guilty of a misdemeanor, and shall be punishable by a fine
25 not less than one hundred dollars (\$100) nor more than one thousand
26 dollars (\$1,000), or by imprisonment in the county jail not exceeding
27 six months, or by both the fine and imprisonment.

28 21. Penal Code section 336.9 provides:

(a) Notwithstanding Section 337a , and except as provided in
subdivision (b), any person who, not for gain, hire, or reward other than
that at stake under conditions available to every participant, knowingly
participates in any of the ways specified in paragraph
(2) , (3) , (4) , (5) , or (6) of subdivision (a) of Section 337a in any bet,
bets, wager, wagers, or betting pool or pools made between the person
and any other person or group of persons who are not acting for gain,

1 hire, or reward, other than that at stake under conditions available to
2 every participant, upon the result of any lawful trial, or purported trial,
3 or contest, or purported contest, of skill, speed, or power of endurance
4 of person or animal, or between persons, animals, or mechanical
apparatus, is guilty of an infraction, punishable by a fine not to exceed
two hundred fifty dollars (\$250).

5 (b) Subdivision (a) does not apply to either of the following
6 situations:

7 (1) Any bet, bets, wager, wagers, or betting pool or pools
made online.

8 (2) Betting pools with more than two thousand five
9 hundred dollars (\$2,500) at stake.

10 22. Penal Code section 337a, subd. (a)(6) provides in part:

11 (a) Except as provided in Section 336.9, every person who
12 engages in one of the following offenses, shall be punished for a first
13 offense by imprisonment in a county jail for a period of not more than
14 one year or in the state prison, or by a fine not to exceed five thousand
dollars (\$5,000), or by both imprisonment and fine:

15 (6) Lays, makes, offers or accepts any bet or bets, or wager
16 or wagers, upon the result, or purported result, of any trial, or
17 purported trial, or contest, or purported contest, of skill, speed or
power of endurance of person or animal, or between persons,
animals, or mechanical apparatus.

18 23. Penal Code section 337j provides in part:

19 (a) It is unlawful for any person, as owner, lessee, or employee,
20 whether for hire or not, either solely or in conjunction with others, to do
21 any of the following without having first procured and thereafter
22 maintained in effect all federal, state, and local licenses required by
law:

23 (1) To deal, operate, carry on, conduct, maintain, or
24 expose for play in this state any controlled game.

25 (2) To receive, directly or indirectly, any compensation
26 or reward or any percentage or share of the revenue, for keeping,
running, or carrying on any controlled game.

27 (3) To manufacture, distribute, or repair any gambling
28 equipment within the boundaries of this state, or to receive,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state.

(b) It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(c) It is unlawful for any person to knowingly permit any gambling equipment to be manufactured, stored, or repaired in any house or building or other premises that the person owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(d) Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail for not more than one year or by a fine of not more than ten thousand dollars (\$10,000), or by both imprisonment and fine. A second offense of this section is punishable by imprisonment in a county jail for a period of not more than one year or in the state prison or by a fine of not more than ten thousand dollars (\$10,000), or by both imprisonment and fine.

(e)(1) As used in this section, "controlled game" means any poker or Pai Gow game, and any other game played with cards or tiles, or both, and approved by the Department of Justice, and any game of chance, including any gambling device, played for currency, check, credit, or any other thing of value that is not prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, "controlled game" does not include any of the following:

- (A) The game of bingo conducted pursuant to Section 326.3 or 326.5.
- (B) Parimutuel racing on horse races regulated by the California Horse Racing Board.
- (C) Any lottery game conducted by the California State Lottery.
- (D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.