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11
12 **BEFORE THE**
13 **CALIFORNIA GAMBLING CONTROL COMMISSION**
14 **STATE OF CALIFORNIA**
15

16 In the Matter of the Initial State Gambling
17 License Application for:

18 **FORTISS, LLC; JOHN H. PARK TRUST**
19 **UNDER DECLARATION OF TRUST**
20 **DATED JULY 18, 2012, MEMBER; JOHN**
21 **PARK, TRUSTEE, SETTLOR,**
22 **BENEFICIARY; MICHAEL VASEY,**
23 **MEMBER, CHIEF FINANCIAL OFFICER;**
24 **JOHN PARK, MANAGER; EMILY PARK,**
25 **SUCCESSOR TRUSTEE**

26 **1100 S. Flower Street, Suite 3100**
27 **Los Angeles, CA 90015**

28 **Applicants.**

CGCC Case No. CGCC-2020-0227-11A-F

BGC Case No. HQ2020-00007SL

STATEMENT OF PARTICULARS

1 **PARTIES**

2 1. Stephanie K. Shimazu submits this Statement of Particulars solely in her official
3 capacity as the Director of the California Department of Justice, Bureau of Gambling Control
4 (Bureau).

5 2. Fortiss, LLC (Fortiss) is a consulting company that was organized by John H. Park
6 (Mr. Park) in May 2004, in Nevada. Fortiss provides administrative services in the areas of
7 management, recruiting, hiring, training, information technology, industry certification, career
8 development, human resources, accounting, and assistance with state and local licensing
9 compliance, and legal services including contract, regulatory guidance and litigation management
10 (Collectively, Services). The current members of Fortiss are the John H. Park Trust, dated July
11 18, 2012 (Trust) and Michael Charles Vasey (Mr. Vasey). In addition to being a member of
12 Fortiss, Mr. Vasey is also the Chief Financial Officer of Fortiss. Emily Park is a successor trustee
13 of the Trust. The Trust's ownership interest in Fortiss is 99.5%, and Mr. Vasey's ownership
14 interest in .5%. Mr. Park is the manager of Fortiss, and Mr. Park is also the Trust's trustee,
15 settlor, and sole beneficiary. Fortiss, the Trust as a member, Mr. Park as a trustee, settlor, and
16 beneficiary, Mr. Vasey as a member, Mr. Park as a manager, and Emily Park, successor trustee,
17 are collectively referred to as "Applicants."

18 **HISTORY OF APPLICATIONS**

19 3. On or about October 20, 2016, the California Gambling Control Commission
20 (Commission) placed a condition on Cal-Pac Rancho Cordova dba Parkwest Casino Cordova's
21 (Cordova) (GEGE-001300) State Gambling License requiring Fortiss and Mr. Vasey to submit
22 applications for State Gambling License (Applications). It was discussed that Applicants would
23 also be required to submit Applications for licensure with Mr. Park's remaining gambling
24 establishments.

25 4. Including Cordova, Mr. Park's gambling establishments are Cal-Pac Sonoma, LLC
26 dba Parkwest Casino Sonoma (Sonoma) (GEGE-000005); The Silver F, Inc., dba Parkwest
27 Casino Lotus (Lotus) (GEGE-001321); Lodi Cardroom, Inc. dba Parkwest Casino Lodi (Lodi)
28 (GEGE-001299); Casino 580, LLC dba Parkwest Casino 580 (Casino 580) (GEGE-001322); and

1 The River Card Room, Inc. dba The River Card Room (The River) (GEGE-001092) (collectively,
2 the Parkwest Casinos). The six Parkwest Casinos are all owed or partially owned by Mr. Park.

3 5. On or about December 15, 2016, and August 9, 2017, the Bureau received
4 Applications from Fortiss and its members to be licensed with each of the Parkwest Casinos.

5 6. On or about September 16, 2019, the Bureau submitted an Initial Background
6 Investigation Report to the Commission recommending that the Commission approve the State
7 Gambling License for Applicants, Mr. Park as the manager of Fortiss, and Mr. Vasey as a
8 member of Fortiss. However, the Bureau's recommendation included the following condition:

9 Within 30 days of the Commission's approval, Fortiss, LLC
10 shall terminate its Administrative Services Agreement with
11 Knighted Ventures, LLC or Parkwest Casino Cordova, Parkwest
12 Casino Sonoma, Parkwest Casino Lotus, Parkwest Casino 580, and
13 Parkwest Casino Lodi must terminate their contracts with Knighted
14 Ventures, LLC. (Bureau's Recommended Licensing Condition.)

15 7. On February 27, 2020, pursuant to California Code of Regulations, title 4, section
16 12054, subdivision (a)(2), the Commission voted to refer consideration of the Applications to an
17 evidentiary hearing to be conducted before the Commission as a Gambling Control Act (GCA)
18 hearing under the provisions of California Code of Regulations, title 4, section 12060.

19 8. Applicants each submitted a Notice of Defense, dated March 17, 2020.

20 **BURDEN OF PROOF**

21 9. Applicants have the burden of proving that they are qualified to receive a state
22 gambling license. (Bus. & Prof. Code, § 19856, subd. (a).)

23 **LICENSURE CONSIDERATIONS**

24 **(Factors in Aggravation and Mitigation)**

25 10. The Commission required Fortiss to apply for a State Gambling License after Fortiss
26 was deemed to have significant influence over the Parkwest Casinos. Fortiss provides services to
27 all six of the Parkwest Casinos, in addition to other entities owned by Mr. Park.

28 11. In addition to providing Services to the Parkwest Casinos, since February 8, 2012,
Fortiss has also provided similar Services to Knighted Ventures, LLC (Knighted). Knighted is a

1 Third Party Provider of Proposition Player Services (TPPPS) owned by Roy Choi (Mr. Park's
2 cousin) and Jieho Lee.

3 12. On October 1, 2018, Fortiss entered into its current agreement with Knighted. This
4 agreement states that Fortiss is to provide services in the areas of accounting, human resources,
5 information technology, and legal services that includes contracts, regulatory guidance and
6 litigation support (Contractor Services). Fortiss' provides legal services to Knighted under this
7 current agreement that includes "guidance with entity, owner, and employee state and local
8 licensing laws" and "[l]itigation support". The current agreement also authorizes Fortiss to
9 provide Knighted with "[a]dditional miscellaneous services as may be specifically requested by
10 Client to Contractor in writing from time to time."

11 13. Knighted is paying Fortiss a fixed monthly rate of \$166,667 for providing these
12 Contractor Services under the October 1, 2018, month-to-month agreement. In response to a
13 question regarding how Fortiss and Knighted calculated this monthly rate, on November 20,
14 2019, Mr. Vasey advised Bureau staff as follows:

15 The contract rate stated in the Fortiss/Knighted Ventures agreement is
16 negotiated by the Parties. In preparation for the negotiations, Fortiss
17 performed a confidential internal calculation to determine the actual costs
18 it incurs in providing the services to Knighted Ventures, plus 17%.

19 14. In 2014, Fortiss and its attorneys were involved in the review of an incident report
20 regarding a dealer cheating scheme at Cordova. On or about January 6, 2015, Bureau staff
21 contacted Cordova staff to request Cordova's final incident report regarding the cheating scheme.
22 Cordova staff delayed turning over the final incident report to the Bureau in order to provide time
23 for the report's review and editing by Fortiss and its attorneys. As a result of Cordova's delay in
24 providing the final incident report to the Bureau, the Bureau mailed a Letter of Warning to
25 Cordova's Designated Agent, Mr. Vasey, on January 7, 2015.

26 15. During a Commission meeting held on October 20, 2016, Commissioner's questioned
27 Mr. Vasey regarding Cordova's delay in January, 2015, with providing the Bureau its final
28 incident report regarding the dealer cheating scheme. The questions asked and answered

1 regarding the reasons for Fortiss' review of the final incident report during this Commission
2 meeting included the following:

3 *Commissioner Conklin:* When you say litigation you are concerned
4 about the former employee suing?

5 *Mr. Vasey:* Correct, there is litigation going on today. That's exactly
6 why we were concerned about this.

7 *Commissioner Conklin:* So the only issue is that Fortiss reviewed and
8 that Fortiss' attorney reviewed and this incident had to do with HR
9 issues.

10 *Mr. Vasey:* HR, there could be criminal things if this had gone to a
11 criminal court. Mr. Park is going to be the one to defend it and so we
12 want to make sure Mr. Park is not put in jeopardy for any type of
13 information that's heard over as evidence. It has to do with accuracy.

14 16. The Bureau conducted a comprehensive investigation of the 2014 incident regarding
15 the dealer cheating scheme at Cordova. At the investigation's conclusion Bureau staff forwarded
16 the case to the Sacramento District Attorney's Office for charges against the involved patron and
17 dealers. However, the Sacramento District Attorney's Office declined to file charges because the
18 Fortiss attorney had reviewed/edited the final incident report and witness/employee statements.

19 17. The litigation support provision in Fortiss' current agreement with Knighted appears
20 to continue to authorize Fortiss and its attorneys to review and possibly edit documents prepared
21 by Knighted staff regarding its TPPPS operations at the Parkwest Casinos, including Fortiss'
22 review and possible editing of incident reports.

23 18. The treasurer of Fortiss, Tom Chan (Mr. Chan) has signature authority on Knighted's
24 payroll and operating accounts. Mr. Chan also has signature authority on the business account for
25 Majesty Partners, LLC; a TPPPS partially owned by Knighted. Both Fortiss and Knighted use
26 the same external CPA firm—Meloni, Hribal, & Tratner LLP—to prepare their annual financial
27 statements.

28 19. Knighted has contracts with five of Mr. Park's six Parkwest Casinos to provide
TPPPS. These gambling establishments are Cordova, Sonoma, Lotus, Lodi, and Casino 580.

1 Dated: September 14, 2020

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STEPHANIE K. SHIMAZU, DIRECTOR

Bureau of Gambling Control

California Department of Justice

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APPENDIX A

JURISDICTION AND PROCEDURE

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

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

2. Business and Professions Code, section 19823 provides:

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

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

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

(b) For the purposes of this section, “unqualified person” means a person who is found to be unqualified pursuant to the criteria set forth in Section 19857, and “disqualified person” means a person who is found to be disqualified pursuant to the criteria set forth in Section 19859.

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,^[1] 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 person licensed or approved. The commission may condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling

¹ Hereinafter, “chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

1 enterprise whether or not the commission takes action against the
2 license of the gambling enterprise.

3 * * *

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

7 4. Business and Professions Code, section 19853, subdivision (a), provides:

8 The commission, by regulation or order, may require that the
9 following persons register with the commission, apply for a finding of
10 suitability as defined in subdivision (i) of 19805, or apply for a
11 gambling license:

12 * * *

13 (3) Any person who does business on the premises of a
14 licensed gambling establishment.

15 5. Business and Professions Code, section 19870 provides:

16 (a) The commission, after considering the recommendation of
17 the chief^[2] 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
20 or grant a license to an applicant who it determines to be qualified to
21 hold 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
27 prepare 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
court finds that the action of the commission was arbitrary and
capricious, or that the action exceeded the commission's jurisdiction.

² "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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

5 8. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
6 part:

7 If the Commission elects to hold an evidentiary hearing, the
8 hearing will be conducted as a GCA hearing under Section 12060,
9 unless the Executive Director or the Commission determines the
10 hearing should be conducted as an APA hearing under Section
11 12058

12 9. California Code of Regulations, title 4, section 12060, subdivision (b) provides:

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

18 10. California Code of Regulations, title 4, section 12354, subdivision (a)(1) provides:

19 (a) An individual, if holding a valid work permit for any
20 gambling enterprise, may immediately begin to work as an interim key
21 employee provided that the individual submit the following to the
22 Bureau within 10 days of hiring:

23 (1) An Application for Interim Key Employee License, BGC-
24 035 (Rev. 07/17), which is attached in Appendix A to this
25 chapter.

26 11. California Code of Regulations, title 4, section 12354, subdivision (c)(1) provides:

27 (c) Interim key employee license approvals are subject to the
28 following conditions:

(1) An application package for an initial portable
personal key employee license as required in subsection (c) of
Section 12350 must be submitted to the Bureau within 30 days
of assuming a key employee position.

1 12. California Code of Regulations, title 4, section 12354, subdivision (e)(1), provides:

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

5 (1) Evidence showing that the applicant has sustained
6 any disqualifying criminal convictions...

7 13. California Code of Regulations, title 4, section 12355, subdivision (a)(1), provides:

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

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

16 SPECIFIC STATUTORY PROVISIONS

17 14. Business and Professions Code, section 19855 provides:

18 Except as otherwise provided by statute or regulation, every
19 person who, by statute or regulation, is required to hold a state license
20 shall obtain the license prior to engaging in the activity or occupying
21 the position with respect to which the license is required. Every person
22 who, by order of the commission, is required to apply for a gambling
23 license or a finding of suitability shall file the application within 45
24 calendar days after receipt of the order.

25 15. Business and Professions Code, section 19856 provides:

26 (a) Any person who the commission determines is qualified to
27 receive a state license, having due consideration for the proper
28 protection of the health, safety, and general welfare of the residents of
the State of California and the declared policy of this state, may be
issued a license. The burden of proving his or her qualifications to
receive any license is on the applicant.

(b) An application to receive a license constitutes a request for a
determination of the applicant's general character, integrity, and ability
to participate in, engage in, or be associated with, controlled gambling.

(c) In reviewing an application for any license, the commission
shall consider whether issuance of the license is inimical to public
health, safety, or welfare, and whether issuance of the license will
undermine public trust that the gambling operations with respect to
which the license would be issued are free from criminal and dishonest
elements and would be conducted honestly.

1 16. Business and Professions Code, section 19857 provides:

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

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

6 (b) A person whose prior activities, criminal record, if any,
7 reputation, habits, and associations do not pose a threat to the public
8 interest of this state, or to the effective regulation and control of
9 controlled gambling, or create or enhance the dangers of unsuitable,
10 unfair, or illegal practices, methods, and activities in the conduct of
11 controlled gambling or in the carrying on of the business and financial
12 arrangements incidental thereto.

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

15 17. Business and Professions Code section 19859 provides, in part:

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

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

20 (b) Failure of the applicant to provide information,
21 documentation, and assurances required by this chapter or
22 requested by the chief, or failure of the applicant to reveal any fact
23 material to qualification, or the supplying of information that is
24 untrue or misleading as to a material fact pertaining to the
25 qualification criteria.

26 * * *

27 (d) Conviction of the applicant for any misdemeanor
28 involving dishonesty or moral turpitude within the 10-year period
immediately preceding the submission of the application, unless
the applicant has been granted relief pursuant to Section 1203.4,
1203.4a, or 1203.45 of the Penal Code; provided, however, that the
granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45
of the Penal Code shall not constitute a limitation on the discretion
of the commission under Section 19856 or affect the applicant's
burden under Section 19857.

18. Business and Professions Code section 19866 provides:

An applicant for licensing or for any approval or consent
required by this chapter, shall make full and true disclosure of all
information to the department and the commission as necessary to

1 carry out the policies of this state relating to licensing, registration,
2 and control of gambling.

3 19. California Code of Regulations, title 4, section 12200.9, subdivision (a)(1)(D),
4 provides:

5 (a) (1) Proposition player services must not be provided
6 except pursuant to a written proposition player contract approved in
7 advance by the Bureau. Provision of proposition player services by
8 any person subject to registration or licensing under this chapter, or
9 engagement of proposition player services by the holder of the state
10 gambling license, without a contract as required by this section is a
violation of this section. The Bureau must approve a proposition
player contract only if all the following requirements have been
satisfied:

11 * * *

12 (D) The contract will not undermine
13 public trust that the controlled gambling operations
14 covered by the contract will be conducted honestly,
15 by reason of the existence or perceived of any
16 collusive arrangement between any party to the
17 contract and the holder of a state gambling license,
18 or otherwise.
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