

1 XAVIER BECERRA
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 RONALD L. DIEDRICH
Deputy Attorney General, SBN 95146
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 322-1043
6 Fax: (916) 327-2319
E-mail: Ronald.Diedrich@doj.ca.gov
7 *Attorneys for Complainant*

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CALIFORNIA GAMBLING
CONTROL COMMISSION

8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**

12
13 **In the Matter of the Statement of Reasons
Regarding:**

CGCC Case No: CGCC-2017-0209-8

14
15 **HOA THE NGUYEN,
A.K.A.: HOA NGUYEN**

BGC Case No. BGC-HQ2017-00004SL

16
17 License Number GEKE-000971

STATEMENT OF REASONS

18 **Respondent.**

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21 Complainant alleges as follows:

22 **PARTIES**

23 1. Wayne J. Quint, Jr. (Complainant) brings this Statement of Reasons solely in his
24 official capacity as the Chief of the California Department of Justice, Bureau of Gambling Control
25 (Bureau).

26 2. On or about December 4, 2002, Hoa The Nguyen (Respondent) was initially issued
27 key employee license (license) number GEKE-000971, as a key employee at the Oaks Card Club
28 (Oaks), a licensed gambling establishment, license number GEKE-001063, in Emeryville,

1 California. Respondent was employed as the manager of the Asian Games Department at the Oaks
2 until March 2011, when his employment was terminated by the Oaks for his failure to properly
3 manage that department and for allowing criminal activities to take place therein.

4 3. From on or about December 4, 2002, until June 30, 2011, Respondent's license was
5 continuously renewed by the California Gambling Control Commission (Commission).¹

6 4. On or about February 28, 2011, the Commission received Respondent's application to
7 renew his license. Respondent's application was dated November 28, 2011.²

8 5. On or about June 10, 2011, the Bureau sent the Commission and the Respondent's
9 then-designated agent, John Tibbetts, a Cardroom Key Employee Renewal Report. In that report,
10 the Bureau advised the Commission that Respondent had been terminated from his employment at
11 the Oaks as a result of the Bureau's and the Federal Bureau of Investigation's on-going
12 investigation into criminal activity occurring at the Oaks. That investigation resulted in an
13 Emergency Order being issued on March 2, 2011, temporarily closing the Oaks, and subsequent
14 discipline being imposed upon the Oaks' gambling license. (*In the Matter of the Accusation*
15 *Against: The Oaks Card Club*, OAH No. 2011040117, CGCC Case No. 2011-03-04-1.)

16 6. On or about June 27, 2011, the Commission received Respondent's request for a
17 hearing, which was dated June 23, 2011.³

18 7. At its June 30, 2011 meeting, the Commission voted to refer consideration of
19 Respondent's application to renew his license to an administrative hearing to be heard before the
20

21 ¹ From on or about December 4, 2002, until on or about September 23, 2008,
22 Respondent's key employee license was endorsed on the Oaks' gambling license. Thereafter, the
23 Commission granted Respondent a personal portable key employee license with the same number,
GEKE-00971.

24 ² It is presently unknown why Respondent dated the application he submitted on February
25 28, 2011, with the date of November 28, 2011 ("11/28/2011").

26 ³ It appears from Respondent's request for a hearing that he was aware that the
27 Commission staff was recommending to the Commission that his application to renew his license
28 be denied. Respondent requested that in the event that the Commission were to deny his
application at its June 30, 2011 meeting that he be given an evidentiary hearing. While the
Commission neither granted nor denied Respondent's application, it did send the matter to an
evidentiary hearing.

1 Office of Administrative Hearings (OAH) pursuant to the provision of the Administrative
2 Procedure Act (Gov. Code, § 11500 et seq.).

3 8. At its February 9, 2017 meeting, the Commission voted to retract its 2011 referral of
4 this matter to a hearing to be heard before OAH and re-referred the matter to a hearing to be heard
5 by the Commission pursuant to the provisions of the Gambling Control Act (Bus. & Prof. Code, §
6 19800 et seq.).

7 **CAUSE FOR DENIAL OF APPLICATION**

8 **(Felony Criminal Conviction – Crime of Dishonest and Moral Turpitude)**

9 9. Respondent's application to renew his license is subject to denial in that Respondent
10 was convicted of a felony related to his causing or attempting to cause the failure to file a required
11 currency transaction report and/or his structuring, assisting in structuring, or attempting to
12 structure one or more financial transactions, in violation of title 31, United States Code, section
13 5324, in the case of *United States of America v. Hoa The Nguyen* (N.D.Cal. 2011, 3:11-MJ-
14 70227). In addition to being a felony conviction, it was a conviction of conduct constituting
15 dishonesty and moral turpitude. That conduct arose out of, or was related to, his employment at
16 the Oaks.

17 (Bus. & Prof. Code, §§ 19850, 19854, subds. (a) & (b), 19857, subds., (a) & (b), & 19859, subds.
18 (c) & (d).)⁴

19 **PRAYER**

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

22 1. Denying Respondent's application to renew his key employee license, number
23 GEKE-000971; and
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27 ⁴ The statutes and regulations applicable to this Statement of Issues are quoted in pertinent
28 part in Appendix A.

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

Dated: February 23, 2017.


Wayne J. Quint, Jr., Chief
California Department of Justice
Bureau of Gambling Control
Complainant

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 or
4 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 associated
9 with controlled gambling activities.

10 4. Business and Professions Code section 19850 provides in pertinent part:

11 Every person who, . . . as . . . [an] employee, whether for hire or
12 not, either solely or in conjunction with others, deals, operates, carries on,
13 conducts, maintains, or exposes for play any controlled game in this
14 state, or who receives, directly or indirectly, any compensation or
15 reward, . . . for keeping, running, or carrying on any controlled game in
16 this state, shall apply for and obtain from the commission, and shall
17 thereafter maintain, a . . . key employee license, . . . as specified in this
18 chapter.^[5]

19 5. Business and Professions Code section 19854, subdivisions (a) and (b), provide:

20 (a) Every key employee shall apply for and obtain a key employee
21 license.

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

24 6. Business and Professions Code section 19870 provides:

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

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

⁵ Chapter refers to chapter 5 of the Business and Professions Code, commencing with section 19800. It is also known as the California Gambling Control Act.

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

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

6 (e) A decision of the commission denying a license or approval,
7 or imposing any condition or restriction on the grant of a license or
8 approval may be reviewed by petition pursuant to Section 1085 of the
9 Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure
10 shall not apply to any judicial proceeding described in the foregoing
11 sentence, and the court may grant the petition only if the court finds that
12 the action of the commission was arbitrary and capricious, or that the
13 action exceeded the commission's jurisdiction.

14 7. Business and Professions Code section 19871 provides:

15 (a) The commission meeting described in Section 19870 shall be
16 conducted in accordance with regulations of the commission and as
17 follows:

18 (1) Oral evidence shall be taken only upon oath or
19 affirmation.

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

21 (A) To call and examine witnesses.

22 (B) To introduce exhibits relevant to the issues of the
23 case.

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

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

(E) To offer rebuttal evidence.

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

(4) The meeting need not be conducted according to
technical rules relating to evidence and witnesses. Any relevant

1 evidence may be considered, and is sufficient in itself to support a
2 finding, if it is the sort of evidence on which responsible persons
3 are accustomed to rely in the conduct of serious affairs, regardless
4 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.

5 (b) Nothing in this section confers upon an applicant a right to
6 discovery of the department's^[6] investigative reports or to require
7 disclosure of any document or information the disclosure of which is
otherwise prohibited by any other provision of this chapter.

8 SPECIFIC STATUTORY PROVISIONS

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

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

- 12 9. Business and Professions Code section 19857, subdivisions (a) and (b), provide:

13 No gambling license shall be issued unless, based on all the
14 information and documents submitted, the commission is satisfied that
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
controlled gambling or in the carrying on of the business and financial
arrangements incidental thereto.

- 21 10. Business and Professions Code section 19859, subdivisions (c) and (d) provide:

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

24 * * *

25 (c) Conviction of a felony, including a conviction by a federal
26 court or a court in another state for a crime that would constitute a
felony if committed in California.

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

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(d) Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the 10-year period proceeding 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 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.