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

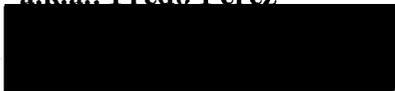
14 In the Matter of the Statement of Reasons for
Denial of Application for Renewal of Key
15 Employee License for:

CGCC Case No. CGCC-2018-0525-9

BGC Case No.: BGC-HQ2018-00042SL

16 **ALFRED DOUGLAS PEREZ**
17 **a.k.a.: Fredo Perez**

STATEMENT OF REASONS

18 
19
20 **Respondent.**

21
22 Complainant alleges as follows:

23 **PARTIES**

24 1. Stephanie Shimazu submits this Statement of Reasons solely in her official capacity
25 as the Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

26 2. On March 8, 2018, the Bureau received an Application for Gambling Establishment
27 Key Employee License (Application), dated February 28, 2018, submitted by Alfred Douglas
28 Perez, also known as Fredo Perez (Respondent), to renew his key employee license, number

1 GEKE-001568. Respondent is employed as a floor manager and dealer at Outlaws Card Parlor
2 (Outlaws), a licensed gambling establishment located in Atascadero, California. He has been
3 employed in that capacity since December 28, 2017.

4 3. Prior to his employment at Outlaws, Respondent was employed at Oceana Cardroom
5 (Oceana), from October 2008 until September 2016. He was initially employed as a dealer. In
6 May 2010 he was promoted to floor manager, a key employee position. Thereafter, Respondent
7 timely applied for, and on February 11, 2011, was granted, an initial key employee license,
8 number GEKE-001568, by the California Gambling Control Commission (Commission).

9 4. On February 7, 2018, the Bureau received Respondent's Notification of Change in
10 Key Employee Employment Status, which is dated January 9, 2018, advising that he had changed
11 his employment as a key employee from Oceana to Outlaws.

12 5. Respondent's key employee license has been continuously renewed from the time it
13 was initially granted until May 25, 2018, at which time the Commission issued Respondent an
14 interim renewal key employee license, number GEKE-001568, which is currently scheduled to
15 expire on May 31, 2020.

16 6. Prior to his employment at Outlaws, from June 14, 2006 through June 13, 2010,
17 Respondent held a work permit for his employment at Old Cayucos Tavern & Card Room, a
18 licensed gambling establishment.

19 7. On or about April 13, 2018, the Bureau issued its Cardroom Key Employee Renewal
20 Background Investigation Report in which it recommended that Respondent's Application be
21 denied.

22 8. At its May 24, 2018, meeting, the Commission referred consideration of
23 Respondent's Application to an evidentiary hearing, which is to be held pursuant to California
24 Code of Regulations, title 4, section 12060.¹

25 9. On June 13, 2018, Respondent submitted a Notice of Defense, which is dated June 6,
26 2018.

27 _____
28 ¹ The statutes and regulations applicable to this Statement of Reasons are quoted in
pertinent part in Appendix A.

1 **BURDEN OF PROOF**

2 10. Respondent has the burden of proving he is suitable for licensure and qualified to
3 have his key employee license renewed. (Bus. & Prof. Code, § 19856, subd. (a).)

4 **FIRST CAUSE FOR DENIAL**

5 **(Misdemeanor Crime of Dishonesty or Moral Turpitude)**

6 11. Respondent's Application is subject to denial because on or about October 30, 2017,
7 Respondent was convicted of violating Vehicle Code section 2800.1, subdivision (a), fleeing a
8 police officer, a misdemeanor and crime of moral turpitude, in the case of *People v. Alfred*
9 *Douglas Perez* (Sup. Ct. San Luis Obispo County, 2017, No. 17F-04751). Respondent's
10 conviction occurred within the 10-year period immediately proceeding the submission of his
11 Application and he has not obtained relief from this conviction pursuant to Penal Code sections
12 1203.4, 1203.4a, or 1203.45.

13 (Bus. & Prof. Code, § 19859, subd. (d) [mandatory denial]; Cal. Code. Regs., tit. 4, §
14 12355, subd. (a)(1) [mandatory denial].)

15 **SECOND CAUSE FOR DENIAL**

16 **(Unsuitable for Licensure – Character, Prior Activities, Criminal Record)**

17 12. Respondent's Application is subject to denial because, in addition to suffering the
18 criminal conviction alleged in paragraph 11 and incorporated herein by reference, on or about
19 October 30, 2017, Respondent, in the case of *People v. Alfred Douglas Perez* (Sup. Ct. San Luis
20 Obispo County, 2017, No. 17F-04751), was convicted of the following:

21 a. Violating Penal Code section 148, subdivision (a)(1), obstructing/resisting a police
22 officer, a misdemeanor.

23 b. Violating Vehicle Code section 23152, subdivision (a), driving under the influence, a
24 misdemeanor.

25 c. Violating Vehicle Code section 23578, special allegation – driving with a blood
26 alcohol level of .15 or higher, a misdemeanor.

27 (Bus. & Prof. Code, §§ 19856, subds. (a) & (b), & 19857, subds. (a) & (b); Cal. Code. Regs., tit.
28 4, § 12355, subd. (a)(1) [mandatory denial].)

1 **THIRD CAUSE FOR DENIAL**

2 **(False, Untrue, or Misleading Statements)**

3 13. Respondent's Application is subject to denial because he provided false, untrue, or
4 misleading information to the Bureau regarding facts material to his qualification for licensure.
5 As part of the application process and in response to an inquiry by the Bureau, Respondent
6 provided false, untrue, or misleading information regarding the circumstances that led to his
7 October 30, 2017, conviction for violating Vehicle Code sections 2800.1, subdivision (a), fleeing
8 a police officer, a misdemeanor and crime of moral turpitude, and 148, subdivision (a)(1),
9 obstructing/resisting a police officer, a misdemeanor, in the case of *People v. Alfred Douglas*
10 *Perez* (Sup. Ct. San Luis Obispo County, 2017, No. 17F-04751). Respondent asserted that during
11 the incident that lead to his arrest and subsequent convictions he was pulled over once, that he did
12 not try to run or escape, that he was prudently looking for a safe place to park when he was pulled
13 over, that he was not speeding or breaking traffic laws, and that the police added a felony²
14 evading arrest charge because he did not pull over in a timely fashion. Respondent professed that
15 his arrest and subsequent conviction for evading arrest was as a result of an exaggeration of the
16 events. Respondent's recitation of the events was false, untrue, or misleading. In fact,
17 Respondent was driving recklessly³ and under the influence, with a blood alcohol level of about
18 0.233%. When an officer, in a marked black and white police vehicle, with his flashing, rotating
19 emergency lights on, attempted to pull him over, he continued driving for some time. A second
20 officer and then a third officer, in separate vehicles, joined the first officer in pursuit of
21 Respondent, in an attempt to pull him over. Eventually, Respondent pulled over in response to
22 the officers following him with their rotating, flashing, emergency lights and sirens on. He then
23 refused to follow the officers' direction to get out of his vehicle, a Chevrolet Suburban. Instead,
24 he drove off. He was followed by the officers and was pulled over again. He again refused to

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26 ² While Respondent may have been charged with a felony, he pled to, and was convicted
of, a misdemeanor in this case.

27 ³ Respondent was observed speeding at over 60 miles per hour in a 35-mile-per-hour
28 zone, as well cutting thru a café parking lot, and nearly breaking traction when rapidly changing
lanes.

1 follow the officers' direction to exit his vehicle. Eventually, he was forcibly extracted from his
2 vehicle. He was then taken to Arroyo Grande Community Hospital for treatment, prior to being
3 transported to the San Louis Obispo Jail.

4 (Bus. & Prof. Code, §§ 19856, subs. (a) & (b), 19857, subs. (a) & (b), 19859, subs. (a)
5 [mandatory denial] & (b) [mandatory denial], & 19866; Cal. Code. Regs., tit. 4, § 12355, subd.
6 (a)(1) [mandatory denial].)

7 **PRAYER**

8 WHEREFORE, Bureau Director Shimazu requests that following the hearing to be held on
9 the matters herein alleged, the Commission issue a decision:

- 10 1. Denying Respondent's Key Employee Application to renew his key employee
11 license;
- 12 2. Canceling Respondent's Interim Key Employee License; and
- 13 3. Taking such other and further action as the Commission may deem appropriate.
- 14

15 Dated: August 20, 2018



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

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

3 4. Business and Professions Code section 19854, subdivision (a), provides:

4 Every key employee shall apply for and obtain a key employee
5 license.

6 5. Business and Professions Code section 19870 provides:

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

11 (b) When the commission grants an application for a license or
12 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.

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

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

17 (e) A decision of the commission denying a license or approval,
18 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
19 Code of Civil Procedure. Section 1094.5 of the Code of Civil
Procedure shall not apply to any judicial proceeding described in the
20 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.

21 6. Business and Professions Code section 19871 provides:

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

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

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

26 (A) To call and examine witnesses.

27 (B) To introduce exhibits relevant to the issues of the
28 case.

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

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

5 (E) To offer rebuttal evidence.

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

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

17 (b) Nothing in this section confers upon an applicant a right to
18 discovery of the department's^[4] investigative reports or to require
19 disclosure of any document or information the disclosure of which is
20 otherwise prohibited by any other provision of this chapter.

21 7. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
22 part:

23 If the Commission elects to hold an evidentiary hearing, the
24 hearing will be conducted as a GCA hearing under Section 12060,
25 unless the Executive Director or the Commission determines the
26 hearing should be conducted as an APA hearing under Section
27 12058

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

29 (a) If the Executive Director determines it is appropriate, he or
30 she may set an application for consideration at a GCA hearing in
31 advance of a meeting pursuant to Section 12054. The Executive
32 Director shall give notice to the applicant, pursuant to paragraph (2)
33 subsection (c) of Section 12052, to the Office of the Attorney General,
34 and to the Bureau no later than 90 calendar days in advance of the
35 GCA hearing. The Executive Director's determination will be based
36 on information contained in the Bureau's report or other appropriate
37 sources including, without limitation, a request from the Bureau or
38 applicant as well as the Commission's operational considerations. The

⁴ "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 Commission retains the authority to refer the matter to an APA
2 hearing pursuant to subsection (a) of Section 12056 or hear the matter
3 at a Section 12054 meeting if the Commission deems it appropriate.

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

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

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

16 (d) The applicant or the complainant, or the applicant and the
17 complainant, may request a continuance in writing to the Executive
18 Director stating the reason for the continuance and any proposed
19 future hearing dates. The Executive Director or Commission may
20 approve the 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
23 provide to the complainant, at least 30 calendar days prior to the GCA
24 hearing, the following items:

- 25 (1) A list of potential witnesses with the general subject of
26 the testimony of each witness;
- 27 (2) Copies of all documentary evidence intended to be
28 introduced at the hearing and not previously provided;
- (3) Reports or statements of parties and witnesses, if
available; and
- (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 (1) In advance of the GCA hearing, upon a motion of a
2 party or by order of the presiding officer, the presiding officer
3 may conduct a pre-hearing conference, either in person, via
4 teleconference, or by email exchange, subject to the presiding
5 officer's availability and shall issue a pre-hearing order if
6 appropriate or requested by either party. The pre-hearing
7 conference and order may address the following:

8 (A) Evidentiary issues;

9 (B) Witness and exhibit lists;

10 (C) Alterations in the Bureau recommendation;

11 (D) Stipulation for undisputed facts including the
12 admission of the Bureau's report; and

13 (E) Other issues that may be deemed appropriate to
14 promote the orderly and prompt conduct of the hearing.

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

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

24 (1) Prohibit the testimony of any witness or the
25 introduction of any documentary evidence that has not been
26 disclosed pursuant to subsection (e); or

27 (2) Continue any meeting or hearing as necessary to
28 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 section 19868, to enable the Commission to make an informed
decision on whether the applicant has met his, her, or its burden of
proof. The complainant may but is not required to recommend or seek
any particular outcome during the evidentiary hearing, unless it so
chooses.

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

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

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

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

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

23 SPECIFIC STATUTORY AND REGULATORY PROVISIONS

24 9. Business and Professions Code section 19854, subdivision (b) provides:

25 No person may be issued a key employee license unless the
26 person would qualify for a state gambling license.

27 10. Business and Professions Code section 19856 states:

28 (a) Any person who the commission determines is qualified to
receive a state license, having due consideration for the proper
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.

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

7
8 11. Business and Professions Code section 19857 provides, in part:

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

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

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

20 12. Business and Professions Code section 19859 provides, in part:

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

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

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

* * *

(d) Conviction of the applicant for any misdemeanor
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.

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

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

(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.