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8
 9 BEFORE THE
 10 CALIFORNIA GAMBLING CONTROL COMMISSION
 11 STATE OF CALIFORNIA
 12

13
 14 In the Matter of the Application for Key
 Employee License Regarding:
 15
 16 MICHAEL FREEZE ARVIZU
 17 [REDACTED]
 18 [REDACTED]
 19 Applicant.

BGC Case No. HQ2013-00005AL
 CGGC Case No. 2013-0221-1
STATEMENT OF PARTICULARS

20
 21 PARTIES

- 22 1. Wayne J. Quint, Jr., submits this Statement of Particulars solely in his official
 23 capacity as the Chief of the California Department of Justice, Bureau of Gambling Control
 24 (Bureau).
 25 2. On or about August 29, 2011, Michael Freeze Arvizu (Applicant) completed an
 26 Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 08/19), and a
 27 Key Employee Supplemental Background Investigation Information . BGC-APP 016A (Rev.
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1 08/09), which were received by the California Gambling Control Commission (Commission) on
2 October 5, 2011.

3 3. On or about October 13, 2011, Applicant completed an Application for Interim Key
4 Employee License, CGCC-035 (New 08/09) which was received by the Commission on October
5 19, 2011. The Commission granted Applicant an Interim Personal Portable Key Employee
6 License (GEKE-001709) with an expiration date of October 31, 2013; however, that interim
7 license was extended by the Commission until the completion of this matter.

8 4. At its February 21, 2013 meeting, the Commission referred the matter of Applicant's
9 request for an initial key employee license to an evidentiary hearing.

10 5. On or about June 14, 2013, pursuant to California Code of Regulations, title 4, section
11 12050, subdivision (b), the Commission's Executive Director set the matter for a hearing to be
12 conducted pursuant to the provisions of Business and Professions Code sections 19870 and
13 19871, and California Code of Regulations, title 4, section 12050, subdivision (b)(2).

14 **JURISDICTION**

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

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

19 7. Business and Professions Code section 19823 provides:

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

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

26 (2) Assuring that there is no material involvement,
27 directly or indirectly, with a licensed gambling operation, or
28 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.

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

5 8. Business and Professions Code section 19824 provides, in part:

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

10 * * *

11 (b) For any cause deemed reasonable by the commission, deny any
12 application for a license, permit, or approval provided for in this chapter
13 or regulations adopted pursuant to this chapter, limit, condition, or restrict
14 any license, permit, or approval, or impose any fine upon any person
15 licensed or approved. The commission may condition, restrict, discipline,
16 or take action against the license of an individual owner endorsed on the
17 license certificate of the gambling enterprise whether or not the
18 commission takes action against the license of the gambling enterprise.

19 * * *

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

23 9. Business and Professions Code section 19854, subdivision (a), provides:

24 Every key employee shall apply for and obtain a key employee
25 license.

26 10. Business and Professions Code section 19870 provides:

27 (a) The commission, after considering the recommendation of the
28 [Bureau] chief and any other testimony and written comments as 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 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.

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

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

1 video recording.

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

10 11. Business and Professions Code section 19871 provides:

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

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

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

17 (A) To call and examine witnesses.

18 (B) To introduce exhibits relevant to the
19 issues of the case.

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

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

26 (E) To offer rebuttal evidence.

27 (3) If the applicant does not testify in his or her own
28 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 evidence may be considered, and is sufficient in
itself to support a finding, if it is the sort of evidence on
which responsible 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.

(b) Nothing in this section confers upon an applicant a right to

1 discovery of the department's¹ investigative reports or to require
2 disclosure of any document or information the disclosure of which is
3 otherwise prohibited by any other provision of this chapter.

4 SPECIFIC STATUTORY AND REGULATORY PROVISIONS

5 12. Business and Professions Code section 19854, subdivision (b) provides:

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

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

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

11 14. Business and Professions Code section 19857 provides:

12 No gambling license shall be issued unless, based on all of 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 (c) A person that is in all other respects qualified to be licensed as
24 provided in this chapter.

25 LICENSURE CONSIDERATIONS

26 (Misdemeanor Criminal Convictions)

27 15. Applicant has a history of misdemeanor criminal convictions that presents a question
28 of Applicant's qualifications for licensure pursuant to the criteria set forth in Business and
Professions Code section 19857. That history is as follows:

¹ "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 a. On or about July 30, 1974, Applicant was convicted of violating Penal Code section
2 415, disturbing the peace, a misdemeanor, in the case of *People of the State of California v.*
3 *Michael Freese Arvizu* (Super. Ct. Los Angeles County, 1974, No. M73032).

4 b. On or about November 9, 1982, Applicant was convicted of violating Penal Code
5 section 273, subdivision (g), immoral acts before a child, a misdemeanor, in the case of *People of*
6 *the State of California v. Michael Freese Arvizu* (Super. Ct. Los Angeles County, 1982, No.
7 M057363), and a crime of moral turpitude.

8 c. On or about September 27, 1991, Applicant was convicted, upon a plea of nolo
9 contendere, of violating Penal Code section 314, subdivision (1), indecent exposure, a
10 misdemeanor in the case of *People of the State of California v. Michael Eugene Arvizu* (Super.
11 Ct. Los Angeles County, 1991, No. M00215), and a crime of moral turpitude.

12 **BUREAU RECOMMENDATION**

13 16. On or about January 22, 2013, the Bureau recommended to the Commission that
14 Applicant be found suitable to hold a license as a key employee. The Bureau's position took into
15 account the following factors in mitigation and aggravation:

16 a. Although Applicant was convicted of three misdemeanors, including crimes of moral
17 turpitude, they all occurred over twenty years ago. Applicant did display questionable character
18 over twenty years ago; however, he has not been convicted of any crimes since 1991.

19 b. Applicant's convictions were all misdemeanors and he successfully completed his
20 probation.

21 c. None of Applicant's criminal convictions were for conduct directly related to
22 controlled gambling or his employment as an employee at The Commerce Casino.

23 d. Applicant has been employed at The Commerce Casino since July of 1983. It
24 appears he has a spotless employment history with that licensed gambling establishment. During
25 his 30 years of employment with The Commerce Casino there does not appear to be any evidence
26 that in such employment he poses a threat to the public's interest, in the effective regulation and
27 control of controlled gambling, or creates or enhances the dangers of unsuitable, unfair or illegal
28 practices, methods or activities in the conduct of controlled gambling.

1 e. Applicant has been cooperative and honest during the Bureau's investigation of
2 Applicant's suitability for licensure.

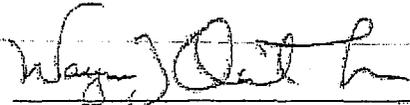
3 f. Employing Applicant in the licensed gambling industry does not appear to pose a
4 current threat to the health, safety or welfare of the public.

5 g. Applicant promoted to the position of Security Captain in July of 1993. Under the
6 Gambling Control Act (Bus. & Prof. Code, § 19800 et seq.), this job position is considered to be a
7 key employee position; however, Applicant did not apply for a key employee license until
8 October of 2011. Therefore, Applicant worked for 18 years in a key employee position under a
9 work permit without a proper license.

10 CONCLUSION

11 WHEREFORE, Bureau Chief Wayne J. Quint, Jr., consistent with the Bureau's January 22,
12 2013 Report, requests that all evidence be heard regarding the items herein alleged at a hearing
13 and, that the Commission find that Applicant is suitable for an initial key employee license.
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15 Dated: July 17th, 2014



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

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