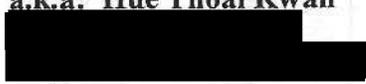


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8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**

14 **In the Matter of the Application for a Key**
Employee License Regarding:
15
16 **RICHARD THOAI KWAN**
a.k.a: Hue Thoai Kwan
17 
18
and
19
P.O. Box 333
20 **Mountain View, California 94942**
21
22 **Applicant.**

BGC Case No. BGC-HQ2014-00011SL
CGGC Case No. CGCC-2014-0626-8D

STATEMENT OF PARTICULARS

23
24 **PARTIES**

25 1. Wayne J. Quint, Jr., submits this Statement of Particulars solely in his official
26 capacity as the Chief of the California Department of Justice, Bureau of Gambling Control
27 (Bureau).
28

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.

7. Business and Professions Code section 19824 provides in part:

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

9 * * *

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

18 * * *

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

22 8. Business and Professions Code section 19854, subdivision (a), provides:

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

25 9. Business and Professions Code section 19870 provides:

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

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

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

10. Business and Professions Code section 19871 provides:

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

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

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

13 (A) To call and examine witnesses.

14 (B) To introduce exhibits relevant to the
15 issues of the case.

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

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

20 (E) To offer rebuttal evidence.

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

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

1 (b) Nothing in this section confers upon an applicant a right to
2 discovery of the department's² investigative reports or to require
3 disclosure of any document or information the disclosure of which is
4 otherwise prohibited by any other provision of this chapter.

4 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

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

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

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

11 13. 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:

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

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

19 **LICENSURE CONSIDERATIONS**

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

21 15. Applicant has a history of misdemeanor criminal convictions and other conduct, as
22 well as a negative financial history, that presents a question of whether Applicant is qualified for
23 licensure pursuant to the criteria set forth in Business and Professions Code section 19857. The
24 circumstances are as follows:

25
26
27 ² "Department" refers to the Department of Justice. (See Bus. & Prof. Code, § 19805,
28 subd. (h).)

1 **Factors in Aggravation**

2 a. On or about May 7, 1999, Applicant was convicted, upon a negotiated plea of nolo
3 contendere, of violating Penal Code, section 484f, subdivision (a), forgery (use of fraudulent
4 credit card), a misdemeanor and crime of morale turpitude and dishonesty, in the case of *People*
5 *of the State of California v. Richard Thoai Kwan* (Super. Ct. San Mateo County, 1999, No.
6 NM292512A).

7 b. On or about March 8, 2009, Applicant was convicted, upon a plea of nolo contendere,
8 of violating Vehicle Code, section 14601.1, subdivision (a), driving on a suspended license, a
9 misdemeanor; and Vehicle Code, section 23123, subdivision (a), use of a cell phone while driving
10 without a hands free device, an infraction, in the case of *People of the State of California v.*
11 *Richard Thoai Kwan* (Super. Ct. Santa Clara County, 2009, No. BB836611).

12 c. On or about August 26, 2009, the San Francisco Superior Court, Unified Family
13 Court, issued a Restraining Order After Hearing, in case number FCS-06-339448, restraining
14 Applicant from contact with his ex-girl friend and their child.

15 d. On or about January 17, 2013, Applicant's driver's license was suspended for non-
16 payment of child support.

17 e. Applicant has a negative financial history as a result of:

18 (i) His failure to pay child support.

19 (ii) A delinquent account with BMW Financial Services.

20 (iii) A collection account with AFNI-BLOOM for failure to pay Direct TV.

21 (iv) Back federal taxes owed to the Internal Revenue Service (IRS).

22 **Factors in Mitigation**

23 f. Applicant's May 17, 1999, conviction is over 14 years old and pre-dates the time he
24 filed his application for licensure by more than 10 years. It was also dismissed pursuant to Penal
25 Code, section 1203.4.

26 g. Applicant has paid all fines associated with his March 8, 2009, convictions and his
27 driver's license has been restored.

28

1 h. The August 26, 2009, Restraining Order against Applicant has expired and no new
2 order has been issued.

3 i. Applicant is presently current on his child support payments.

4 j. Applicant is currently making payments to BMW Financial Services.

5 k. Applicant was a victim of identity theft regarding an account with Direct TV and
6 AFNI-BLOOM has closed the account and is taking no further action against Applicant.

7 l. Applicant has entered into an installment payment agreement with the IRS for the
8 back taxes he owes. There are no tax liens presently listed on his credit report.

9 m. None of Applicant's criminal convictions were for conduct directly related to
10 controlled gambling or his employment in the licensed gambling industry in California.

11 n. Applicant has been employed in the licensed gambling industry in California since
12 about 2009. There is no evidence that he poses a threat to the public's interest, or to the effective
13 regulation and control of controlled gambling, or creates or enhances the dangers of unsuitable,
14 unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the
15 carrying on of the business and financial arrangements incidental thereto.

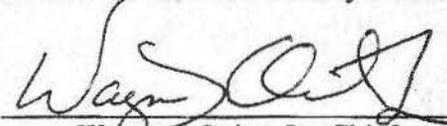
16 o. There is no evidence of Applicant having a history of violating any of the substantive
17 provisions of the Gambling Control Act (Bus. & Prof. Code, § 19800 et seq.) or the regulations
18 promulgated thereunder.

19 f. Applicant has been cooperative and honest during the Bureau's investigation of
20 Applicant's suitability for licensure.

21 **CONCLUSION**

22 WHEREFORE, Bureau Chief Wayne J. Quint, Jr., requests that following the hearing to be
23 held on the matters herein alleged the Commission take such action as it may deem appropriate.

24
25 Dated: October 22, 2014

26 
Wayne J. Quint, Jr., Chief
Bureau of Gambling Control
California Department of Justice
27
28