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

13 **In the Matter of the Statement of Reasons for**  
14 **Denial of Application for a Key Employee**  
15 **License:**

**BGC Case No. BGC-HQ2017-00005SL**

**CGCC Case No: GCADS-GEKE-002182**

16 **RHEA A. MOTLEY,**  
17 **a.k.a.: RHEA M. MOTLEY, RHEA CHAN**  
18 **94 W. AMENO LANE**  
**Mountain House, California 95391**

**STATEMENT OF REASONS**

19 **Respondent.**  
20

21 Complainant alleges as follows:

22 **PARTIES**

23 1. Wayne J. Quint, Jr. (Complainant) brings this Statement of Reasons for a denial of an  
24 application for a key employee license solely in his official capacity as the Director of the  
25 California Department of Justice, Bureau of Gambling Control (Bureau).

26 2. On February 21, 2014, the California Gambling Control Commission (Commission)  
27 issued an interim key employee license, number GEKE-001952, to Rhea Alana Motley, also  
28 known as: Rhea McGoon Motley, and Rhea Chan (Respondent). This interim key employee

1 license allowed for Respondent's employment as a key employee at Sidjon Corporation, dba  
2 Livermore Casino (Livermore Casino), a licensed gambling establishment in Livermore,  
3 California, while her application for an initial key employee license was being processed.

4 3. On or about April 28, 2014, the Bureau received an Application for Gambling  
5 Establishment Key Employee License, with attachments, dated January 15, 2014, as well as a Key  
6 Employee Supplemental Background Investigation Information, with attached schedules, dated  
7 April 8, 2014, (collectively, Application) from Respondent.

8 4. On or about February 26, 2016, the Bureau received an application from Respondent  
9 to renew her interim key employee license.

10 5. On or about January 20, 2017, the Bureau submitted a Cardroom Key Employee  
11 Background Investigation Report to the Commission recommending Respondent's Application be  
12 denied.

13 6. On or about February 10, 2017, Respondent's interim key employee license was  
14 cancelled by the Commission pursuant to California Code of Regulations, title 4, section 12354,  
15 subdivision (e)(5),<sup>1</sup> because, as alleged above, the Bureau recommends denial of Respondent's  
16 Application.<sup>2</sup>

17 7. On February 27, 2017, pursuant to California Code of Regulations, title 4, section  
18 12060, subdivision (a), the Executive Director of the Commission referred consideration of  
19 Respondent's Application to an evidentiary hearing to be held under the provisions of California  
20 Code of Regulations, title 4, section 12060.

21 8. On or about March 6, 2017, Respondent submitted a Notice of Defense, dated March  
22 4, 2017.

23  
24  
25 <sup>1</sup> The statutes and regulations applicable to this Statement of Reasons are quoted in  
26 pertinent part in Appendix A.

27 <sup>2</sup> In a letter dated February 10, 2017, the Commission notified Respondent that  
28 "[n]otwithstanding the cancellation of your Interim Key Employee License, the Commission will  
consider your application for an Initial Key Employee License at a future Commission meeting."

1 **BURDEN OF PROOF**

2 9. Respondent has the burden of proving she is qualified to receive a key employee  
3 license. (Bus. & Prof. Code, § 19856, subd. (a).)

4 **FIRST CAUSE FOR DENIAL OF APPLICATION**

5 **(Misdemeanor Criminal Convictions)**

6 10. Respondent's Application is subject to denial<sup>3</sup> in that Respondent has suffered the  
7 following misdemeanor criminal convictions:

8 a. On or about June 22, 2016, upon a plea of no contest, Respondent was convicted of  
9 violating Vehicle Code section 23152, subdivision (a), driving under the influence; Vehicle Code  
10 section 23152, subdivision (b), driving with more than .08 percent of alcohol in blood; and Vehicle  
11 Code section 23247, subdivision (e), operating a vehicle not equipped with a functioning, certified  
12 ignition interlock device, all misdemeanors, in the case of *People v. Rhea M. Motley* (Super. Ct.  
13 Alameda County, 2015, No. 152463-7).

14 b. On or about February 28, 2013, upon a plea of no contest, Respondent was convicted  
15 of violating Vehicle Code section 23152, subdivision (b), driving with more than .08 percent of  
16 alcohol in blood, a misdemeanor, in the case of *People v. Rhea M. Motley* (Super. Ct. Alameda  
17 County, 2013, No. 143290-7).

18 c. On or about November 4, 2011, upon a plea of no contest, Respondent was convicted  
19 of violating Vehicle Code section 23152, subdivision (a), driving under the influence, a  
20 misdemeanor, in the case of *People v. Rhea M. Motley* (Super. Ct. Alameda County, 2011, No.  
21 138200-2).

22 (Bus. & Prof. Code, §§ 19854, subd. (b), & 19857, subs. (a) & (b); Cal. Code. Regs., tit. 4, §§  
23 12355, subs. (a)(1), (b)(2), & (c), & 12568, subs. (c)(3) & (c)(4).)

24  
25 <sup>3</sup> Respondent's application is subject to mandatory denial if Respondent is found to be  
26 unqualified or disqualified for licensure under any of the criteria found in Business and  
27 Professions Code sections 19857, subs. (a) or (b), or 19859. (Cal. Code. Regs., tit. 4, § 12355,  
28 subd. (a)(1); see also, Bus. & Prof. Code, § 19823, Cal. Code. Regs., tit. 4, § 12568, subs. (c)(3)  
& (c)(4).)

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Honesty, Integrity & Failure to Disclose)**

3 11. Respondent's Application is subject to denial<sup>4</sup> in that Respondent failed to disclose  
4 and/or supplied misleading information material to her qualification for licensure as follows:

5 a. In her Application, under penalty of perjury, Respondent affirmatively denied that she  
6 had ever been convicted of a crime, despite having suffered the two criminal convictions alleged in  
7 paragraph 10, subsections (b) and (c), above.<sup>5</sup>

8 (Bus. & Prof. Code, §§ 19854, subd. (b), 19857, subds. (a) & (b), & 19859, subds. (a) & (b); Cal.  
9 Code. Regs., tit. 4, §§ 12355, subds. (a)(1) & (c), & 12568, subds. (c)(3) & (c)(4).)

10 **THIRD CAUSE FOR DENIAL OF APPLICATION**

11 **(Negative Employment History)**

12 12. Respondent's Application is subject to denial<sup>6</sup> in that on or about September 27, 2015,  
13 Respondent was terminated, for cause, from her employment with Livermore Casino.

14 (Bus. & Prof. Code, §§ 19854, subd. (b), & 19857, subds. (a) & (b); Cal. Code. Regs., tit. 4, §§  
15 12355, subds. (a)(1), (b)(2), & (c), & 12568, subd. (c)(3) & (4).)

16 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

17 **(Compromised Honesty, Integrity & Character)**

18 13. Respondent's Application is subject to denial<sup>7</sup> in that the Court in *Rhea Motley v.*  
19 *Sidjon Corporation et al.* (Super. Ct. Alameda County, 2016, No. RG16831838) issued an order  
20 on October 13, 2016, and on November 3, 2016, prohibiting Respondent from entering the  
21 premises of Livermore Casino in the future, as a result of her prior unauthorized entry on the  
22

23 <sup>4</sup> See footnote 3, *supra*.

24 <sup>5</sup> Section 6 of the Key Employee Supplemental Background Investigation Information  
25 asks in pertinent part: "Have you ever been convicted of a crime or pled guilty, or pled nolo  
26 contender (no contest) to a crime?" In response, Respondent declared, under penalty of perjury,  
27 "No."

26 <sup>6</sup> See footnote 3, *supra*.

27 <sup>7</sup> See footnote 3, *supra*.

1 premises to take pictures of items in the restricted area of Livermore Casino, after her employment  
2 was terminated there.

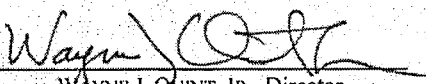
3 (Bus. & Prof. Code, §§ 19854, subd. (b), & 19857, subds. (a) & (b); Cal. Code Regs., tit. 4, §§  
4 12355, subds. (a)(1), (b)(2), & (c), & 12568, subd. (c)(3) & (4).)

5 **PRAYER**

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

- 8 1. Denying Respondent's Application for Gambling Establishment Key Employee  
9 License; and  
10 2. Taking such other and further action as the Commission may deem appropriate.

11 Dated: June 23, 2016. <sup>2017 wjs</sup>

12   
13 WAYNE J. QUINT, JR., Director  
14 Bureau of Gambling Control  
15 California Department of Justice  
16 Complainant

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**APPENDIX A**  
**JURISDICTION**

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 whose operations 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, 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

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  
4 or 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  
9 associated with controlled gambling activities.

10 4. Business and Professions Code section 19854, subdivisions (a) and (b) provide:

11 (a) Every key employee shall apply for and obtain a key  
12 employee license.

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

15 5. Business and Professions Code section 19870 provides:

16 (a) The commission, after considering the recommendation of  
17 the chief 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 or  
20 grant a license to an applicant who it determines to be qualified to hold  
21 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 prepare  
27 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

1 court finds that the action of the commission was arbitrary and  
2 capricious, or that the action exceeded the commission's jurisdiction.

3 6. Business and Professions Code section 19871 provides:

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

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

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

10 (A) To call and examine witnesses.

11 (B) To introduce exhibits relevant to the issues of  
12 the case.

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

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

16 (E) To offer rebuttal evidence.

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

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

(b) Nothing in this section confers upon an applicant a right to  
28 discovery of the department's<sup>[8]</sup> investigative reports or to require

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<sup>8</sup> Hereinafter, "department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)



1 disclosure of any document or information the disclosure of which is  
2 otherwise prohibited by any other provision of this chapter.

3 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

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

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

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

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

12 (b) A person whose prior activities, criminal record, if any,  
13 reputation, habits, and associations do not pose a threat to the public  
14 interest of this state, or to the effective regulation and control of  
15 controlled gambling, or create or enhance the dangers of unsuitable,  
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.

16 9. Business and Professions Code section 19859 provides in part:

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

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

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

24 10. California Code of Regulations, title 4, section 12054, subdivision (a), provides:

25 (a) At a non-evidentiary hearing meeting, the Commission may  
26 take, but is not limited to taking, one of the following actions:

27 (1) Issue a license, temporary license, interim license,  
28 registration, permit, finding of suitability, renewal or other  
approval.

1 (2) Elect to hold an evidentiary hearing in accordance with  
2 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  
5 additional information or consideration related to the applicant's  
6 suitability.

7 (3) Table or continue an item for consideration at a  
8 subsequent meeting, for any purpose, including obtaining new or  
9 additional information from the applicant, Bureau or Commission  
10 staff, provided however in the case of renewals, the Commission  
11 must act on the application before the license expires.

12 (4) Extend a license for up to 180 calendar days as  
13 necessary, as provided in Business and Professions Code section  
14 19876, subdivision (c).

15 (5) Approve or deny a request for withdrawal pursuant to  
16 Section 12015.

17 (6) Make a finding of abandonment pursuant to subsection  
18 (c) of Section 12017.

19 (7) If the Bureau has filed an accusatory pleading with the  
20 Commission pursuant to Business and Professions Code section  
21 19930 prior to Commission action on a renewal application, the  
22 Commission shall issue an interim renewal license pursuant to  
23 Section 12035.

24 11. California Code of Regulations, title 4, section 12060, provides:

25 (a) If the Executive Director determines it is appropriate, he or  
26 she may set an application for consideration at a GCA hearing in  
27 advance of a meeting pursuant to Section 12054. The Executive  
28 Director shall give notice to the applicant, pursuant to paragraph (2)  
subsection (c) of Section 12052, to the Office of the Attorney General,  
and to the Bureau no later than 90 calendar days in advance of the GCA  
hearing. The Executive Director's determination will be based on  
information contained in the Bureau's report or other appropriate  
sources including, without limitation, a request from the Bureau or  
applicant as well as the Commission's operational considerations. The  
Commission retains the authority to refer the matter to an APA hearing  
pursuant to subsection (a) of Section 12056 or hear the matter at a  
Section 12054 meeting if the Commission deems it appropriate.

(b) When the Commission has elected to hold a GCA hearing,  
the Executive Director shall give notice to the applicant, pursuant to

1 paragraph (2) subsection (c) of Section 12052, to the Office of the  
2 Attorney General, and to the Bureau no later than 60 calendar days in  
advance of the GCA hearing.

3 (c) The presiding officer shall have no communication with the  
4 Commission or Commission staff upon the merits, or upon information  
5 or documents related to the application prior to the evidentiary hearing.  
The Executive Director shall designate a presiding officer which shall  
6 be:

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

9 (d) The applicant or the complainant, or the applicant and the  
10 complainant, may request a continuance in writing to the Executive  
Director stating the reason for the continuance and any proposed future  
11 hearing dates. The Executive Director or Commission may approve the  
12 request.

13 (e) The complainant shall provide to the applicant, at least 45  
14 calendar days prior to the GCA hearing, and the applicant shall provide  
15 to the complainant, at least 30 calendar days prior to the GCA hearing,  
the following items:

16 (1) A list of potential witnesses with the general subject  
of the testimony of each witness;

17 (2) Copies of all documentary evidence intended to be  
introduced at the hearing and not previously provided;

18 (3) Reports or statements of parties and witnesses, if  
available; and

19 (4) All other written comments or writings containing  
relevant evidence.

20 (f) A presiding officer shall rule on the admissibility of  
21 evidence and on any objections raised except for objections raised  
22 under subsection (g). A ruling by the presiding officer shall be final.

23 (1) In advance of the GCA hearing, upon a motion of a  
24 party or by order of the presiding officer, the presiding officer  
25 may conduct a pre-hearing conference, either in person, via  
26 teleconference, or by email exchange, subject to the presiding  
officer's availability and shall issue a prehearing order if  
appropriate or requested by either party. The prehearing  
conference and order may address the following:

- 27 (A) Evidentiary issues;

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(B) Witness and exhibit lists;

(C) Alterations in the Bureau recommendation;

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

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

(2) The GCA hearing need not be conducted according to technical rules of evidence. Any relevant evidence may be considered, and is sufficient in itself to support findings if it is the sort of evidence on which reasonable 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.

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

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

(2) Continue any meeting or hearing as necessary to 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.

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

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

(k) Except as otherwise provided in subsection (g), the complainant and applicant shall have the right to call and examine witnesses under oath; to introduce relevant exhibits and documentary evidence; to cross-examine opposing witnesses on any relevant matter, even if the matter was not covered in direct examination; to impeach

1 any witness, regardless of which party first called the witness to testify;  
2 and to offer rebuttal evidence. If the applicant does not testify on his,  
3 her or its own behalf, the applicant may be called and examined, under  
oath, as if under cross-examination.

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

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

9 12. California Code of Regulations, title 4, section 12354, subdivision (e)(5), provides:

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

12 \* \* \*

13 (5) A Bureau recommendation of denial of the  
14 applicant's key employee application.

15 13. California Code of Regulations, title 4, § 12355, subs. (a)(1) and (c), provide:

16 (a) An application for a portable personal key employee license  
17 shall be denied by the Commission if any of the following applies.

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

22 \* \* \*

23 (c) The grounds for denial set forth in this section apply in  
24 addition to any grounds prescribed by statute or any grounds that would  
support revocation under chapter 10 of these regulations.

25 14. California Code of Regulations, title 4, § 12568, subs. (c)(3) and (c)(4), provide:

26 (c) A state gambling license, finding of suitability, or approval  
27 granted by the Commission, other than a work permit, and an owner  
28 license for a gambling establishment if the owner licensee has  
committed a separate violation from any violations committed by the

1 gambling establishment shall be subject to revocation by the  
2 Commission on any of the following grounds:

3 \* \* \*

4 (3) If the Commission finds the holder no longer meets  
5 any criterion for eligibility, qualification, suitability or continued  
6 operation, including those set forth in Business and Professions  
Code sections 19857, 19858, or 19880, as applicable, or

7 (4) If the Commission finds the holder currently meets  
8 any of the criteria for mandatory denial of an application set forth  
9 in Business and Professions Code sections 19859 or 19860.  
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