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10 BEFORE THE
11 GAMBLING CONTROL COMMISSION
12 STATE OF CALIFORNIA

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

**CGCC Case No. CGCC-2021-0311-10
BGC Case No. BGC-HQ2016-00011SL**

16 **A VANG SAEPHAN**

STATEMENT OF REASONS

17 Respondent.

19
20 Complainant alleges as follows:

21 **PARTIES**

22 1. Nathan Davalle (Complainant) brings this Statement of Reasons solely in his official
23 capacity as Acting Director of the California Department of Justice, Bureau of Gambling Control
24 (Bureau).

25 2. A Vang Saephan (Respondent) (license no. GEKE-002503) has been employed by the
26 Parkwest Casino Cordova (Cordova) in various positions since approximately August 2018.¹

27 ¹ Michael Vasey of Fortiss, LLC, informed the Bureau on December 28, 2020, that
28 Respondent was placed on furlough from Cordova on July 2, 2020.

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THE APPLICATION AND THIS PROCEEDING

3. On February 13, 2019, the Bureau received an Application for Interim Key Employee License from Respondent. On March 8, 2019, the Bureau received an Application for Gambling Establishment Key Employee License from Respondent. In addition, on March 20, 2019, the Bureau received Key Employee Supplemental Background Investigation Information (collectively, Application) from Respondent. The Application is to allow for Respondent’s employment at Cordova as a Key Employee.

4. On or about February 20, 2019, the California Gambling Control Commission (Commission) issued Interim Personal Portable Key Employee License No. GEKE-002503 to Respondent with an expiration date of February 28, 2021.

5. On or about January 7, 2021, the Bureau issued its Gambling Establishment Key Employee Initial Background Investigation Report, Level III, for Respondent’s Key Employee Application in which it recommended that the Commission deny Respondent’s Application.

6. On March 11, 2021, the Commission referred consideration of Respondent’s Application to an evidentiary hearing, which is to be held pursuant to California Code of Regulations, title 4, section 12060.²

7. On or about August 3, 2021, Respondent submitted a Notice of Defense.

BURDEN OF PROOF

8. Respondent has the burden of proving his qualifications to receive a license. (Bus. & Prof. Code, § 19856, subd. (a).)

² The statutes and regulations applicable to this Statement of Reasons are quoted in pertinent part in Appendix A.

1 **CAUSE FOR DENIAL**

2 **(Failure to Provide Information and Establish Eligibility)**

3 11. Respondent's Application is subject to denial because he was convicted of three
4 misdemeanor offenses³ and, when the Bureau requested that he do so, Respondent failed to
5 provide a statement to the Bureau describing the circumstances that led to his arrest and
6 conviction.

7 12. Respondent's Application is further subject to denial because, when the Bureau
8 requested that he do so, Respondent failed to provide information to the Bureau regarding a wire
9 transfer identified in his checking account statements, and whether he has gaming contracts or
10 agreements with any gambling establishments.

11 13. Respondent's failure to provide relevant information to the Bureau upon the Bureau's
12 requests on multiple occasions renders him disqualified from licensing pursuant to Business and
13 Profession Code section 19859, subdivisions (a) and (b), and demonstrates Respondent's failure
14 to establish his eligibility. His failure to provide information requested by the Bureau
15 demonstrates that he also poses a risk to the effective regulation and control of gambling.
16 (Bus. & Prof. Code, §§ 19850, 19854, subds. (a) & (b), 19855, 19856, 19857, subds. (a) & (b),
17 19859, subds. (a) & (b) [mandatory denial], 19866; Cal. Code Regs., tit. 4, § 12040 subd. (a))

18 **PRAYER**

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

- 21 1. Denying Respondent's Application;
22 2. Cancelling Respondent's Key Employee License, Number GEKE-002503; and
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27 ³ On or about April 8, 2008, in Colusa County Superior Court, Respondent was convicted
28 of violating Fish and Game Code sections 7145, subdivision (a) (fishing without a license) and
2012 (failure to show a license on demand), and California Code of Regulations, title __, section
7.50, subdivision (b)(156)(J) (take/possess salmon in closed waters).

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

Dated: October 29, 2021



NATHAN DAVALLE, Acting Director
Bureau of Gambling Control
California Department of Justice
Complainant

1 **APPENDIX A**

2 **Business and Professions Code**

- 3 1. Business and Professions Code section 19811, subdivision (b), provides:

4 Jurisdiction, including jurisdiction over operation and
5 concentration, and supervision over gambling establishments in this
6 state and over all persons or things having to do with the operation of
7 gambling establishments is vested in the commission.

- 8 2. Business and Professions Code, section 19823 provides:

9 (a) The responsibilities of the commission include, without
10 limitation, all of the following:

11 (1) Assuring that licenses, approvals, and permits are not
12 issued to, or held by, unqualified or disqualified persons, or by
13 persons are conducted in a manner that is inimical to the public
14 health, safety, or welfare.

15 (2) Assuring that there is no material involvement,
16 directly or indirectly, with a licensed gambling operation, or
17 the ownership or management thereof, by unqualified or
18 disqualified persons, or by persons whose operations are
19 conducted in a manner that is inimical to the public health,
20 safety, or welfare.

21 (b) For the purposes of this section, “unqualified person” means a
22 person who is found to be unqualified pursuant to the criteria set forth
23 in Section 19857, and “disqualified person” means a person who is
24 found to be disqualified pursuant to the criteria set forth in Section
25 19859.

- 26 3. Business and Professions Code, section 19824 provides, in part:

27 The commission shall have all powers necessary and proper to
28 enable it fully and effectually to carry out the policies and purposes of
this chapter,^[4] 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 person licensed or approved. The commission may
condition, restrict, discipline, or take action against the license of an
individual owner endorsed on the license certificate of the gambling

⁴ “Chapter” refers to Business and Professions Code, division 8, chapter 5 (commencing with section 19800), also known as the Gambling Control Act.

1 enterprise whether or not the commission takes action against the
2 license of the gambling enterprise.

3 * * *

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

7 4. Business and Professions Code, section 19850, provides:

8 Every person who, either as owner, lessee, or employee, whether
9 for hire or not, either solely or in conjunction with others, deals,
10 operates, carries on, conducts, maintains, or exposes for play any
11 controlled game in this state, or who receives, directly or indirectly,
12 any compensation or reward, or any percentage or share of the money
13 or property played, for keeping, running, or carrying on any controlled
14 game in this state, shall apply for and obtain from the commission, and
15 shall thereafter maintain, a valid state gambling license, key employee
16 license, or work permit, as specified in this chapter. In any criminal
17 prosecution for violation of this section, the punishment shall be as
18 provided in section 337j of the Penal Code.

19 5. Business and Professions Code, section 19853, subdivision (a), provides, in part:

20 The commission, by regulation or order, may require that the
21 following persons register with the commission, apply for a finding of
22 suitability as defined in subdivision (i) of [Business and Professions
23 Code, section] 19805, or apply for a gambling license:

24 * * *

25 (3) Any person who does business on the premises of a
26 licensed gambling establishment.

27 6. Business and Professions Code section 19854, provides, in part:

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

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

7. Business and Professions Code, section 19855 provides:

Except as otherwise provided by statute or regulation, every
person who, by statute or regulation, is required to hold a state license
shall obtain the license prior to engaging in the activity or occupying
the position with respect to which the license is required. Every
person who, by order of the commission, is required to apply for a

1 gambling license or a finding of suitability shall file the application
2 within 45 calendar days after receipt of the order.

3 8. Business and Professions Code section 19856 provides:

4 (a) Any person who the commission determines is qualified to
5 receive a state license, having due consideration for the proper
6 protection of the health, safety, and general welfare of the residents of
7 the State of California and the declared policy of this state, may be
8 issued a license. The burden of proving his or her qualifications to
9 receive any license is on the applicant.

10 (b) An application to receive a license constitutes a request for a
11 determination of the applicant's general character, integrity, and
12 ability to participate in, engage in, or be associated with, controlled
13 gambling.

14 (c) In reviewing an application for any license, the commission
15 shall consider whether issuance of the license is inimical to public
16 health, safety, or welfare, and whether issuance of the license will
17 undermine public trust that the gambling operations with respect to
18 which the license would be issued are free from criminal and dishonest
19 elements and would be conducted honestly.

20 9. Business and Professions Code, section 19857 provides, in part:

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

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

25 (b) A person whose prior activities, criminal record, if any,
26 reputation, habits, and associations do not pose a threat to the public
27 interest of this state, or to the effective regulation and control of
28 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.

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

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

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

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

1 11. Business and Professions Code, section 19866 provides:

2 An applicant for licensing or for any approval or consent required
3 by this chapter, shall make full and true disclosure of all information
4 to the department and the commission as necessary to carry out the
policies of this state relating to licensing, registration, and control of
gambling.

5 12. Business and Professions Code, section 19870 provides:

6 (a) The commission, after considering the recommendation of the
7 chief^[5] and any other testimony and written comments as may be
8 presented at the meeting, or as may have been submitted in writing to
9 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.

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

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

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

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

20 13. Business and Professions Code, section 19871 provides:

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

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

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

25 (A) To call and examine witnesses.

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

28 ⁵ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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

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

6 (E) To offer rebuttal evidence.

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

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

18 (b) Nothing in this section confers upon an applicant a right to
19 discovery of the department's⁶ investigative reports or to require
20 disclosure of any document or information the disclosure of which is
21 otherwise prohibited by any other provision of this chapter.

22 **California Code of Regulations, title 4**

23 14. California Code of Regulations, title 4, section 12040 provides, in part:

24 (a) An application for an initial or renewal license:

25 (1) Will be denied if the Commission finds that the
26 applicant has not satisfied the requirements of Business and
27 Professions Code section 19857; or,

28 (2) Will be denied if the Commission finds that any of the
provisions of Business and Professions Code section 19859 apply
to the applicant.

15 15. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
16 part:

17 If the Commission elects to hold an evidentiary hearing, the
18 hearing will be conducted as a GCA hearing under Section 12060,

19 _____
20 ⁶ “Department” refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
21 (h).)

1 unless the Executive Director or the Commission determines the
2 hearing should be conducted as an APA hearing under Section
3 12058

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

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

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

23 (c) The presiding officer shall have no communication with the
24 Commission or Commission staff upon the merits, or upon
25 information or documents related to the application prior to the
26 evidentiary hearing. The Executive Director shall designate a
27 presiding officer which shall be:

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

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

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

- (1) A list of potential witnesses with the general subject of
the testimony of each witness;
- (2) Copies of all documentary evidence intended to be
introduced at the hearing and not previously provided;
- (3) Reports or statements of parties and witnesses, if

1 available; and

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

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

7 (1) In advance of the GCA hearing, upon a motion of a party
8 or by order of the presiding officer, the presiding officer may
9 conduct a pre-hearing conference, either in person, via
10 teleconference, or by email exchange, subject to the presiding
11 officer's availability and shall issue a pre-hearing order if
12 appropriate or requested by either party. The pre-hearing
13 conference and order may address the following:

14 (A) Evidentiary issues;

15 (B) Witness and exhibit lists;

16 (C) Alterations in the Bureau recommendation;

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

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

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

28 (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 her, his, 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

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chooses.

(i) The burden of proof is on the applicant at all times to prove her, his, 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 any witness, regardless of which party first called the witness to testify; and to offer rebuttal evidence. If the applicant does not testify on her, his or its own behalf, the applicant may be called and examined, under oath, as if under cross-examination.

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

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