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

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13 **In the Matter of the Statement of Reasons**
14 **Against:**

BGC Case No. BGC-HQ 2015-00012SL

CGCC Case No. GCADS-GEWP-002096

15 **Kannitha Phonn**
16 

STATEMENT OF REASONS

17 **Respondent.**

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19 Complainant alleges as follows:

20 **PARTIES**

21 1. Wayne J. Quint, Jr. (Complainant) brings this Statement of Reasons solely in his
22 official capacity as the Chief of the California Department of Justice, Bureau of Gambling
23 Control (Bureau).

24 2. On or about January 14, 2014, Kannitha Phonn (Respondent) submitted an
25 Initial/Temporary Work Permit Application to work in a licensed Gambling Establishment and
26 a Work Permit Questionnaire (collectively, Application) to the Bureau.

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
4 to be disqualified pursuant to the criteria set forth in Section 19859.

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

6 The commission shall have all powers necessary and proper to
7 enable it fully and effectually to carry out the policies and purposes of
8 this chapter^[1], including, without limitation, the power to do all of the
9 following:

10 * * *

11 (b) For any cause deemed reasonable by the
12 commission, deny any application for a license, permit, or
13 approval provided for in this chapter or regulations adopted
14 pursuant to this chapter, limit, condition, or restrict any
15 license, permit, or approval, or impose any fine upon any
16 person licensed or approved.

17 * * *

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

21 11. Business and Professions Code, section 19870 provides:

22 (a) The commission, after considering the recommendation of
23 the chief^[2] and any other testimony and written comments as may be
24 presented at the meeting, or as may have been submitted in writing to
25 the commission prior to the meeting, may either deny the application
26 or grant a license to an applicant who it determines to be qualified to
27 hold the license.

28 (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.

26 ¹ Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,
27 (commencing with section 19800), also known as the Gambling Control Act.

28 ² "Chief" refers to the Chief of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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
4 approval, or imposing any condition or restriction on the grant of a
5 license or approval may be reviewed by petition pursuant to Section
6 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of
7 Civil 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.

8 12. Business and Professions Code, section 19871 provides:

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

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

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

14 (A) To call and examine witnesses.

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

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

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

21 (E) To offer rebuttal evidence.

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

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

1 that might make improper the admission of that evidence over
2 objection in a civil action.

3 (b) Nothing in this section confers upon an applicant a right to
4 discovery of the department's³ investigative reports or to require
5 disclosure of any document or information the disclosure of which is
6 otherwise prohibited by any other provision of this chapter.

7 SPECIFIC STATUTORY AND REGULATORY PROVISIONS

8 13. Title 4 of the California Code of Regulations, section 12105 provides, in part:

9 (a) An application for a work permit shall be denied by the
10 Commission if either of the following applies:

11 (1) The applicant meets any of the criteria for mandatory
12 disqualification under Business and Professions Code section
13 19859.

14 (2) The applicant is found unqualified pursuant to the
15 criteria set forth in subdivisions (a) or (b) of Business and
16 Professions Code section 19857.

17 (b) An application for a work permit may be denied by the
18 Commission if it finds any of the following:

19 (1) Cause set forth in Business and Professions Code
20 section 19914, subdivision (a), paragraphs (1) through (9),
21 inclusive.

22 14. Business and Professions Code section 19857 provides:

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

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

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

³ "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 (c) A person that is in all other respects qualified to be
2 licensed as provided in this chapter.

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

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

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

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

14 (c) Conviction of a felony, including a conviction by a
15 federal court or a court in another state for a crime that would
16 constitute a felony if committed in California.

17 16. Business and Professions Code section 19866 provides:

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

22 17. Business and Professions Code section 19914 states, in part:

23 (a) The commission may [deny] a work permit . . . if the
24 commission finds, after a hearing, that a gambling enterprise
25 [applicant], employee or independent agent has failed to disclose,
26 misstated, or otherwise misled the department or the commission
27 with respect to any fact contained in any application for a work
28 permit, or if the commission finds that the [applicant], employee or
independent agent . . . has done any of the following:

(1) Committed, attempted, or conspired to do any acts
prohibited by this chapter.

(3) Concealed or refused to disclose any material fact in
any investigation by the department.

(9) Been convicted of any felony.

1 18. Business and Professions Code section 19856, subdivision (a) provides,
2 in part:

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

5 **FIRST CAUSE FOR DENIAL OF LICENSE APPLICATION**
6 **(Felony Conviction – Disqualified for Licensure)**

7 19. Respondent's Application is subject to mandatory denial pursuant to Business and
8 Professions Code section 19859, subdivisions (a) and (c), Business and Professions Code section
9 19914, subdivision (a)(9), and title 4 of the California Code of Regulations, section 12105,
10 subdivision (a). On or about July 1, 2015, Respondent was convicted on his plea of no contest to
11 two felonies, namely, a violation of Penal Code section 487, subdivision (a) (Grand Theft), and a
12 violation of Penal Code section 503 (Embezzlement), in *The People of the State of California v.*
13 *Kannitha Phonn* (Sacramento Superior Court Case No. 15F00583). Respondent's two felony
14 convictions are based upon Respondent's taking of money and property valued at \$10,900.00
15 from Capitol Casino in Sacramento, California, where Respondent was employed as a card dealer
16 during the commission of the crimes.

17 **SECOND CAUSE FOR DENIAL OF LICENSE APPLICATION**
18 **(Conviction of Crime Relating to Gambling - Embezzlement from Gambling Licensee)**

19 20. Respondent's Application is subject to denial pursuant to Business and Professions
20 Code section 19857, subdivisions (a) and (b), and title 4 of the California Code of Regulations,
21 section 12105, subdivisions (a) and (b), in that Respondent has demonstrated a lack of good
22 character, honesty, and integrity, and Respondent's prior activities, reputation, criminal record,
23 habits and associations pose a threat to the public interest of this State, or to the effective
24 regulation and control of controlled gambling, or create or enhance the dangers of unsuitable,
25 unfair, or illegal practices, methods, and activities in the conduct of controlled gambling.
26 Respondent engaged in behavior demonstrating an inherent willingness to violate the law,
27 committed acts prohibited by the Gambling Control Act, engaged in dishonest and fraudulent
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1 activities in connection with controlled gambling, committed embezzlement against a gambling
2 licensee, and was convicted of a felony offense involving or relating to gambling. Specifically,
3 Respondent took money and property valued at \$10,900.00 from Capitol Casino during his
4 employment there as a card dealer. In connection with this theft, Respondent plead no contest to
5 felony violations of Penal Code section 487, subdivision (a) (Grand Theft), and Penal Code
6 section 503 (Embezzlement) in *The People of the State of California v. Kannitha Phonn*
7 (Sacramento Superior Court Case No. 15F00583).

8 **THIRD CAUSE FOR DENIAL OF LICENSE APPLICATION**
9 **(Failure to Disclose)**

10 21. Respondent's Application is subject to denial pursuant to Business and Professions
11 Code section 19857, subdivisions (a) and (b), Business and Professions Code section 19866, and
12 title 4 of the California Code of Regulations, section 12105, subdivisions (a) and (b), and/or is
13 subject to mandatory denial pursuant to Business and Professions Code, section 19859,
14 subdivision (b), in that Respondent failed to make full and true disclosure of all information to the
15 Department and the Commission as necessary to carry out the policies of this State relating to
16 licensing, registration, and control of gaming, and/or he failed to disclose facts material to
17 licensing qualification criteria. Specifically, Respondent indicated on his Application, which he
18 signed under penalty of perjury on January 10, 2014, that he left his job at Capitol Casino for a
19 "better opportunity" when in fact Respondent had, by that date, been suspended from
20 employment at Capital Casino in connection with the investigation into his theft of money and
21 property.

22 **PRAYER**

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

- 25 1. Denying Respondent's Application for a Work Permit;
- 26 2. Taking such other and further action as the Commission may deem appropriate,
27 including revoking any work permits held by Respondent and notifying the licensing authority of
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any city and/or county to revoke work permits issued to Respondent by such authorities pursuant to Business and Professions Code section 19914.

Dated: December 28, 2015


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