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10
11 **BEFORE THE**
12 **CALIFORNIA GAMBLING CONTROL COMMISSION**
13 **STATE OF CALIFORNIA**
14

15
16 In the Matter of the Statement of Reasons for
Denial of Application for Initial Regular Work
17 Permit for:

18 **LINH NGOC NGO**
19 [REDACTED]

20
21 **Respondent.**
22

BGC Case No. BGC-HQ2018-00022SL

CGCC Case No. GCADS-GEWP-002630

STATEMENT OF REASONS

23 Complainant alleges as follows:

24 **PARTIES**

25 1. Stephanie Shimazu (Complainant) brings this Statement of Reasons for Denial of
26 Application for Initial Regular Work Permit solely in her official capacity as the Director of the
27 California Department of Justice, Bureau of Gambling Control (Bureau).
28

1 of termination of his employment with the California Highway Patrol, on or about November 22,
2 2016, for that unacceptable behavior.

3 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subd. (a) [mandatory denial],
4 19912, subd. (d), 19914; Cal. Code. Regs., tit. 4, § 12105, subds. (a)(1) [mandatory denial], (a)(2)
5 [mandatory denial], (c) & (e).)

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 **(Dishonesty and Failure to Disclose – Untrue Statements)**

8 9. Respondent's Application is subject to denial because Respondent, under penalty of
9 perjury, failed to accurately and honestly disclose in his Application, and subsequently in response
10 to the Bureau's inquiry, the circumstances leading to his resignation in lieu of termination of his
11 employment with the California Highway Patrol as alleged above in paragraph 8.

12 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) & (b) [mandatory
13 denial], 19866; 19912, subd. (d), 19914; Cal. Code. Regs., tit. 4, § 12105, subds. (a)(1) [mandatory
14 denial], (a)(2) [mandatory denial], (c) & (e).)

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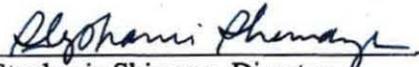
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PRAYER

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

1. Denying Respondent's application for an initial work permit; and
2. Taking such other and further action as the Commission may deem appropriate.

Dated: November 16, 2018.


Stephanie Shimazu, Director
Bureau of Gambling Control
California Department of Justice
Complainant

1 discipline, or take action against the license of an individual owner
2 endorsed on the license certificate of the gambling enterprise whether or
3 not the commission takes action against the license of the gambling
4 enterprise.

5 * * *

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

9 4. Business and Professions Code section 19870 provides:

10 (a) The commission, after considering the recommendation of
11 the chief and any other testimony and written comments as may be
12 presented at the meeting, or as may have been submitted in writing to
13 the commission prior to the meeting, may either deny the application or
14 grant a license to an applicant who it determines to be qualified to hold
15 the license.

16 (b) When the commission grants an application for a license or
17 approval, the commission may limit or place restrictions thereon as it
18 may deem necessary in the public interest, consistent with the policies
19 described in this chapter.

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

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

25 (e) A decision of the commission denying a license or approval,
26 or imposing any condition or restriction on the grant of a license or
27 approval may be reviewed by petition pursuant to Section 1085 of the
28 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 court finds that
the action of the commission was arbitrary and capricious, or that the
action exceeded the commission's jurisdiction.

1 5. Business and Professions Code section 19871 provides:

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

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

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

8 (A) To call and examine witnesses.

9 (B) To introduce exhibits relevant to the issues of
10 the case.

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

14 (D) To impeach any witness, regardless of which
15 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.

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

² Hereinafter, "department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 6. Business and Professions Code section 19912 provides in part:

2 (d) Application for a work permit for use in any jurisdiction
3 where a locally issued work permit is not required by the licensing
4 authority of a city, county, or city and county, shall be made to the
5 department, and may be granted or denied for any cause deemed
reasonable by the commission. . . .

6 7. Business and Professions Code section 19914 provides:

7 (a) The commission may revoke a work permit or, if issued by
8 the licensing authority of a city, county, or city and county, notify the
9 authority to revoke it, and the licensing authority shall revoke it, if the
10 commission finds, after a hearing, that a gambling enterprise employee
11 or independent agent has failed to disclose, misstated, or otherwise
12 misled the department or the commission with respect to any fact
contained in any application for a work permit, or if the commission
finds that the employee or independent agent, subsequent to being issued
a work permit, has done any of the following:

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

15 (2) Engaged in any dishonest, fraudulent, or unfairly
16 deceptive activities in connection with controlled gambling, or
17 knowingly possessed or permitted to remain in or upon any
premises any cards, dice, mechanical devices, or any other
cheating device.

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

20 (4) Committed, attempted, or conspired to commit, any
21 embezzlement or larceny against a gambling licensee or upon the
premises of a gambling establishment.

22 (5) Been convicted in any jurisdiction of any offense
23 involving or relating to gambling.

24 (6) Accepted employment without prior commission
25 approval in a position for which he or she could be required to be
26 licensed under this chapter after having been denied a license or
after failing to apply for licensing when requested to do so by the
commission.

27 (7) Been refused the issuance of any license, permit, or
28 approval to engage in or be involved with gambling or parimutuel

1 waging in any jurisdiction, or had the license, permit, or
2 approval revoked or suspended.

3 (8) Been prohibited under color of governmental authority
4 from being present upon the premises of any licensed gambling
5 establishment or any establishment where parimutuel wagering is
6 conducted, for any reason relating to improper gambling activities
7 or any illegal act.

8 (9) Been convicted of any felony.

9 (b) The commission shall revoke a work permit if it finds, after
10 hearing, that the holder thereof would be disqualified from holding a
11 state gambling license for the reasons specified in subdivision (f) or (g)
12 of Section 19859.

13 (c) Nothing in this section shall be construed to limit any powers
14 of the commission with respect to licensing.

15 8. California Code of Regulations, title 4, section 12060, provides in part:

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

SPECIFIC STATUTORY AND REGULATORY PROVISIONS

9. Business and Professions Code section 19856 provides:

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

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

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

7 10. Business and Professions Code section 19857 provides:

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

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

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

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

17
18 11. Business and Professions Code section 19859 provides in pertinent part:

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

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

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

26 12. Business and Professions Code section 19866 provides:

27 An applicant for licensing or for any approval or consent required
28 by this chapter, shall make full and true disclosure of all information to

the department and the commission as necessary to carry out the policies of this state relating to licensing, registration, and control of gambling.

13. California Code of Regulations, title 4, section 12105, provides in part:

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

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

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

* * *

(c) The grounds for denial set forth in this section apply in addition to any grounds prescribed by statute.

* * *

(e) The provisions of Business and Professions Code sections 19857, 19859, and 19914, subdivision (a) shall be deemed incorporated by reference into this regulation for the purposes set forth in this section. For the purposes of this section, the criteria incorporated by reference in these regulations from Business and Professions Code section 19914, subdivision (a), apply to conduct or events occurring prior to the filing of an application for a work permit.

14. California Code of Regulations, title 4, section 12128, provides in part:

(b) A temporary work permit shall be cancelled by the Executive Director at any time if any of the following applies:

* * *

(2) Pursuant to Business and Professions Code section 19826, the Bureau recommends denial of a regular work permit to the applicant.