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

14
15 In the Matter of the Statement of Reasons for
Denial of Application for Initial Commission
16 Work Permit for:

17 **JOEL MICHAEL BROWN**

18
19 Respondent.

BGC Case No. BGC-HQ2023-00001SL

CGCC Case No. CGCC-2023-0126-8

STATEMENT OF REASONS

Hearing Date: November 30, 2023
Hearing Time: 10:00 a.m.
Hearing Place: 2399 Gateway Oaks Dr.,
Suite 100
Sacramento, CA 95833

**This hearing will be conducted by
means of video conferencing on Zoom.
The Zoom meeting code is 285 757
8614.**

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24 Complainant alleges as follows:

25 **PARTIES**

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

1 Respondent was terminated from his position as a dealer and shift supervisor at Crazy Moose
2 Casino. Respondent indicated on his Application that he resigned from that position for other
3 employment, when in fact he had been terminated. In not disclosing his termination from his
4 position at Crazy Moose Casino on his Application, and subsequently in response to the Bureau's
5 inquiry, Respondent provided inaccurate and misleading information to the Bureau regarding the
6 circumstances surrounding his termination and failed to disclose required information that is
7 material to his Application.

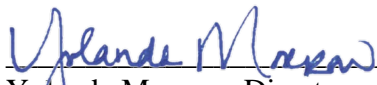
8 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subds. (a) & (b) [mandatory denial], 19866; 19912,
9 19914; Cal. Code. Regs., tit. 4, §§ 12040, subds. (a)(1), (2) [mandatory denial], 12122, subd. (d).)

10 **PRAYER**

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

- 13 1. Denying Respondent's application for an initial work permit;
- 14 2. Revoking Respondent's temporary work permit; and
- 15 3. Taking such other and further action as the Commission may deem appropriate.

16
17 Dated: October 16, 2023



Yolanda Morrow, Director
Bureau of Gambling Control
California Department of Justice
Complainant

1 gambling activities.

- 2 4. Business and Professions Code, section 19853, subdivision (a), provides:

3 The commission, by regulation or order, may require that the following persons
4 register with the commission, apply for a finding of suitability as defined in
subdivision (j) of Section 19805, or apply for a gambling license:

5 * * *

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

- 8 5. Business and Professions Code section 19856 provides, in part:

9 (a) The burden of proving his or her qualifications to receive any license is on the
applicant.

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

- 12 6. Business and Professions Code, section 19857 provides:

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

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

16 (b) A person whose prior activities, criminal record, if any, reputation, habits, and
17 associations do not pose a threat to the public interest of this state, or to the effective
18 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
19 controlled gambling or in the carrying on of the business and financial arrangements
incidental thereto.

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

- 21 7. Business and Professions Code section 19859 provides, in part:

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

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

25 (b) Failure of the applicant to provide information, documentation, and
26 assurances required by this chapter or requested by the chief,⁴ or failure of the
applicant to reveal any fact material to qualification, or the supplying of information
27

28 ⁴ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 that is untrue or misleading as to a material fact pertaining to the qualification
2 criteria.

3 8. Business and Professions Code section 19866 provides:

4 An applicant for licensing or for any approval or consent required by this chapter,
5 shall make full and true disclosure of all information to the department^[5] and the
6 commission as necessary to carry out the policies of this state relating to licensing,
7 registration, and control of gambling.

8 9. Business and Professions Code, section 19870 provides:

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

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

17 (c) If, during a meeting, the commission denies an application, denies approval,
18 or approves with limits, restrictions, or conditions, the action shall be stayed for a
19 period of 30 days after the meeting, during which the applicant may request an
20 evidentiary hearing. If the applicant does not file a request for an evidentiary hearing
21 within 30 days, the action of the commission taken at the meeting is final. If the
22 applicant waives the right to hearing and assents to the action of the commission in
23 writing, upon receipt of the waiver by the commission, the action shall no longer be
24 stayed. If the applicant files a timely request for an evidentiary hearing, the action
25 shall be vacated and the application shall be reviewed de novo at the evidentiary
26 hearing.

27 (d) When an application is denied after an evidentiary hearing, the commission
28 shall prepare and file a detailed statement of its reasons for the denial.

(e) All proceedings relating to an application at a meeting of the commission or at
an evidentiary hearing shall be recorded stenographically or by audio or video
recording.

(f) A decision of the commission after an evidentiary hearing, 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 does not apply to any
judicial proceeding held to consider that petition, 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.

10. Business and Professions Code, section 19871 provides:

⁵ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

1 (a) An evidentiary hearing described in Section 19870 shall be conducted in
2 accordance with regulations of the commission and as follows:

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

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

5 (A) To call and examine witnesses.

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

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

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

9 (E) To offer rebuttal evidence.

10 (3) If the applicant does not testify on their own behalf, the applicant may
11 be called and examined as if under cross-examination.

12 (4) The hearing need not be conducted according to technical rules
13 relating to evidence and witnesses. Any relevant evidence may be
14 considered, and is sufficient in itself to support a finding, if it is the sort of
15 evidence on which responsible 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.

16 (b) This section does not confer upon an applicant a right to discovery of the
17 department's investigative reports or to require disclosure of any document or
18 information the disclosure of which is otherwise prohibited by any other provision of
this chapter.

19 11. Business and Professions Code section 19912 provides, in part:

20 (d) Application for a work permit for use in any jurisdiction where a locally
21 issued work permit is not required by the licensing authority of a city, county, or city
22 and county shall be made to the department, and may be granted or denied by the
commission for any cause specified under this chapter.

23 12. Business and Professions Code section 19914 provides:

24 (a) The commission may revoke a work permit or, if issued by the licensing
25 authority of a city, county, or city and county, notify the authority to revoke it, and
the licensing authority shall revoke it, if the commission finds, after a hearing, that a
26 gambling enterprise employee or independent agent has failed to disclose, misstated,
or otherwise misled the department or the commission with respect to any fact
27 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
28 any of the following:

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

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

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

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

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

14 (6) Accepted employment without prior commission approval in a position
15 for which the employee or independent agent could be required to be licensed
16 under this chapter after having been denied a license or after failing to apply
17 for licensing when requested to do so by the commission.

18 (7) Been refused the issuance of any license, permit, or approval to engage
19 in or be involved with gambling or parimutuel wagering in any jurisdiction,
20 or had the license, permit, or approval revoked or suspended.

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

25 (9) Been convicted of any felony.

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

(c) This section shall not be construed to limit any powers of the commission
with respect to licensing.

REGULATIONS

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

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

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

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

- 3 14. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
4 part:

5 If the Commission elects to hold an evidentiary hearing, . . . the hearing will be
6 conducted as a GCA hearing under Section 12060, unless the Executive Director or
7 the Commission determines the hearing should be conducted as an APA hearing
8 under Section 12058.

- 9 15. California Code of Regulations, title 4, section 12060, provides:

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

19 (b) When a GCA hearing is elected pursuant to Section 12056, subsection (a), the
20 Executive Director will give notice to the applicant, pursuant to paragraph (2)
21 subsection (c) of Section 12052, to the Office of the Attorney General, and to the
22 Bureau no later than 60 calendar days in advance of the GCA hearing.

23 (c) An applicant may request that his, her, or its GCA hearing be held at a
24 Southern California location instead of the Commission's principal office in
25 Sacramento, by completing the appropriate section on the Notice of Defense, CGCC-
26 CH1-03 (Rev. 08/21). The request must be made on the initial Notice of Defense
27 form submitted to the Commission and Bureau within the timeframes specified on
28 the form.

(1) The Executive Director will approve a Southern California GCA
hearing, if the request is timely made on the initial Notice of Defense form
and meets all of the following criteria:

(A) The GCA hearing is estimated by Commission staff to last no
longer than four hours.

(B) The primary residence of the applicant is located in one of the
following counties: Imperial, Kern, Los Angeles, Orange, Riverside, San
Diego, San Luis Obispo, San Bernardino, Santa Barbara, or Ventura.

(C) A GCA hearing will be noticed for a Southern California
location only when it is in the best public interest, promotes judicial
economy, and comports with the Commission's availability.

(2) If at any time before the hearing, the Executive Director determines
that the criteria in subparagraphs (A) through (C) of paragraph (1) are no
longer met, Commission staff may cancel the Southern California GCA

1 hearing and issue a new notice for a hearing at the Commission's principal
2 office in Sacramento.

3 (d) The presiding officer and her or his support staff will have no communication
4 with the Commission or Commission staff upon the merits of an application prior to
5 the evidentiary hearing. The Executive Director will designate a presiding officer
6 which will be:

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

9 (e) The applicant or the complainant, or the applicant and the complainant, may
10 request a continuance in writing to the Executive Director stating the reason for the
11 continuance and any proposed future hearing dates. The Executive Director or
12 Commission may approve the request. For a Southern California GCA hearing, if a
13 continuance is granted, the hearing may be scheduled in Sacramento or Southern
14 California based on the criteria specified in subparagraphs (A) through (C) of
15 paragraph (1) of subsection (c).

16 (f) The complainant will provide to the applicant, subject to subsection (b) of
17 Section 12056, at least 45 calendar days prior to the GCA hearing, and the applicant
18 must provide to the complainant, at least 30 calendar days prior to the GCA hearing,
19 the following items:

- 20 (1) A list of potential witnesses with the general subject of the testimony
21 of each witness;
- 22 (2) Copies of all documentary evidence intended to be introduced at the
23 hearing and not previously provided;
- 24 (3) Reports or statements of parties and witnesses, if available; and
- 25 (4) All other written comments or writings containing relevant evidence.

26 (g) The provisions of subsection (f) of this section provide the exclusive right to
27 and method of discovery between the applicant and complainant to a GCA hearing.
28 Discovery is not permitted upon a Commission member or an advisor of the
Commission unless a showing is made that they have direct personal factual
information pertaining to material issues related to the application at issue and the
information to be gained from the Commission member or advisor of the
Commission is not available through any other sources.

(h) A presiding officer will rule on the admissibility of evidence and on any
objections raised except for objections raised under subsection (h). A ruling by the
presiding officer is final.

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

- (A) Evidentiary issues;

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(B) Witness and exhibit lists;

(C) Alterations in the Bureau recommendation;

(D) Stipulations for undisputed facts and/or the admission of evidence including without limitation the Bureau's report;

(E) Authorizing offsite livestreaming appearances for parties or witnesses if good cause has been presented and only if the process for offsite livestreaming has been approved by the Executive Director; and,

(F) 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.

(i) 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 (f); or

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

(j) The complainant will 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.

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

(l) The applicant may choose to represent himself, herself, or itself, or may retain an attorney or lay representative. Lay representatives may assist the applicant but are not authorized to serve as an attorney as otherwise defined and regulated by state law.

(m) Except as otherwise provided in subsection (i), the complainant and applicant will 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 his, her or its behalf, the applicant may be called and examined, under oath, as if under cross-examination.

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(n) Oral evidence will 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.

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

16. California Code of Regulations, title 4, section 12122, subdivision (d), provides:

(d) Upon issuance or denial of a license or Commission work permit by the Commission, the temporary license will become void and cannot be used thereafter.