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9  
10 **BEFORE THE**  
11 **CALIFORNIA GAMBLING CONTROL COMMISSION**  
12 **STATE OF CALIFORNIA**  
13

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

**BGC Case No. BGC-HQ2019-00006SL**

**CGCC Case No: CGCC-2019-0221-9**

17 **EDUARDO JESUS MARTINEZ**  
18 [REDACTED]

**STATEMENT OF REASONS**

19  
20 **Respondent.**  
21

22 Complainant alleges as follows:

23 **PARTIES**

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

27 2. On or about February 13, 2018, the Bureau received an Application for Initial Work  
28 Permit/Temporary Work Permit, dated January 26, 2018, and a Work Permit Questionnaire, dated

1 January 19, 2017, (collectively, Application) from Eduardo Jesus Martinez (Respondent) to allow  
2 his employment as a poker dealer at Central Coast Casino, a licensed gambling establishment in  
3 Grove Beach, California.

4 3. On or about March 2, 2018, the California Gambling Control Commission  
5 (Commission) issued Respondent a temporary work permit to allow for his employment as a poker  
6 dealer at Central Coast Casino. On or about January 15, 2019, that temporary work permit was  
7 cancelled pursuant to California Code of Regulations, title 4, section 12128, subdivision (b)(2).<sup>1</sup>

8 4. On or about January 8, 2019, the Bureau submitted a Work Permit Initial Background  
9 Investigation Report to the Commission recommending the denial of Respondent's application.

10 5. At its February 21, 2019 meeting, the Commission referred Respondent's work permit  
11 suitability to be determined at an evidentiary hearing.

12 6. On or about February 22, 2019, the Commission's Deputy Director, Licensing  
13 Division, advised Respondent in writing that the evidentiary hearing would be conducted pursuant  
14 to California Code of Regulations, title 4, section 12060. At the same time, a Notice of Defense  
15 form was provided to Respondent.

16 7. On or about March 1, 2019, Respondent submitted a Notice of Defense, dated  
17 February 25, 2019.

### 18 **BURDEN OF PROOF**

19 8. Respondent has the burden to prove he is qualified to receive a work permit.  
20 (Bus. & Prof. Code, § 19856, subd. (a).)

### 21 **FIRST CAUSE FOR DENIAL OF APPLICATION**

#### 22 **(Lack of Requisite Good Character, Honesty, and Integrity—** 23 **Conviction of a Crime of Moral Turpitude)**

24 9. Respondent's Application is subject to denial in that he has suffered the following  
25 criminal conviction:

26 \_\_\_\_\_  
27 <sup>1</sup> The statutes and regulations applicable to this Statement of Reasons are quoted in  
28 pertinent part in Appendix A.

1 a. On or about February 6, 2008, Respondent was convicted, upon a plea of no  
2 contest, of violating Penal Code section 415, disturbing the peace, a misdemeanor, in the case of  
3 *People of the State of California v. Eduardo Jesus Martinez* (Super. Ct. Santa Barbara County,  
4 2008, Case No. 1286620). As a result of this criminal conviction, Respondent was sentenced to 36  
5 months probation, ordered to attend personal counseling, and ordered to pay a fine.

6 b. The underlying facts regarding Respondent's criminal conviction on February 6,  
7 2008, show that he carried out his crime in a manner that involved moral turpitude.<sup>2</sup> These facts  
8 include the following:

9 (i) The victim of Respondent's crime was his friend and co-worker. She had  
10 begun receiving annoying and anonymous text messages, and these texts gave the victim the  
11 impression that the harasser was following her. Further, the text messages give the victim the  
12 impression that the harasser knew where she lived, and where Respondent lived.

13 (ii) The victim discussed these text messages with Respondent. Respondent  
14 told the victim that he and a friend, who allegedly worked for the Lompoc Police Department,  
15 tracked down the harasser. Respondent told the victim that he and his friend went into the  
16 harasser's home and entered the basement. Respondent stated that in the basement there were  
17 three girls tied up, and that the victim's pictures were on the basement walls. Respondent also told  
18 the victim that the harasser was beat up and arrested.

19 (iii) Later, Respondent again contacted the victim and told her that the harasser  
20 was not arrested. Rather, Respondent claimed that he killed the harasser.

21 (iv) All of Respondent's claims to the victim regarding the harasser were not  
22 true. Instead, Respondent was the harasser.

23 \_\_\_\_\_  
24 <sup>2</sup> Respondent's conviction for this crime of moral turpitude is not subject to a mandatory  
25 denial under Business and Professions Code section 19859, subdivision (d). Under this statute, the  
26 moral turpitude conviction the must have occurred "within the 10-year period immediately  
27 proceeding the submission of the application . . . ." In this case, the 10-year period for  
28 Respondent's conviction ended on February 6, 2018, approximately seven days prior to the filing  
of Respondent's Application on or about February 13, 2018. Nonetheless, Respondent's  
Application remains subject to several other statutory grounds for denial, including a discretionary  
denial for lacking good character, honesty and integrity under Business and Professions Code  
section 19857, subdivision (a).

1 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), & 19859; & Cal. Code. Regs., tit. 4, §  
2 12105, subds. (a)(1) & (a)(2) [mandatory denials].)

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Lack of Requisite Good Character, Honesty, Integrity & Failure to Disclose—**  
5 **Untrue Statements in Application and to Others)**

6 10. Complainant re-alleges each of the allegations set forth in Paragraphs 1 through 9  
7 above and by this reference incorporates each allegation as if set forth herein in full.

8 11 Respondent's Application is subject to denial because Respondent made, on multiple  
9 occasions, dishonest and/or misleading statements to his victim, the investigating police, to the  
10 Bureau, and to the Chumash Casino Resort (Chumash). In addition to his dishonest and/or  
11 misleading statements to the victim, Respondent's dishonest and/or misleading statements also  
12 include the following:

13 a. Respondent's Dishonest Statements to Law Enforcement: Respondent was  
14 interviewed by an officer with the Santa Barbara Sheriff's Department regarding the annoying text  
15 messages sent to the victim. Respondent initially told the officer that the annoying messages were  
16 sent by an individual named Steven Villalobos. Respondent also told the officer that he and a  
17 friend found three girls tied up in a basement, and that there were pictures of the victim on the  
18 basement wall. Respondent further told the officer that the girls were released, and that the girls  
19 decided not to contact law enforcement. When the officer advised Respondent that he could be  
20 charged with a crime for making a false police report if these events had not occurred, Respondent  
21 then admitted to making up this story. The officer then asked Respondent if he was the individual  
22 who sent the text messages. Respondent again lied to the officer by saying these messages were  
23 sent by one of his friends, who Respondent identified as Rudy Pulido. When the officer advised  
24 that law enforcement could track the origin of the text messages, Respondent then admitted that he  
25 sent the text messages.

26 b. Respondent's Dishonest Statements to Gambling Regulators: On March 30,  
27 2016, the Bureau received from Respondent an initial Finding of Suitability Tribal Key Employee  
28 application in connection with his employment with Chumash Casino Resort (Chumash).

1 Respondent had previously provided a statement to the Chumash Tribal Gaming Agency (TGA)  
2 about the facts and circumstances leading to his conviction for disturbing the peace on February 6,  
3 2008. Specifically, on or about August 27, 2012, Respondent provided a written statement to the  
4 TGA that he and his friends decided to play a “practical joke” on another friend by pretending to  
5 be a stalker. While his friends wanted to stop, Respondent thought it would be “funny” to  
6 continue “the joke.” Because the Respondent’s statement to the TGA differed from the arrest  
7 report, the Bureau asked Respondent for a statement explaining the discrepancies. Respondent  
8 provided the Bureau with a written response dated December 19, 2016. This response stated, in  
9 part, “[m]y public defender had told me I could fight the charger [sic] or take the plea deal, he had  
10 advised me that I could lose the trial and that I should take the deal.” “He told me to take the  
11 blame to say [sic] the reason I did it was because I was mad at her, so I could avoid the charges  
12 that could ruin my record.” After completing its investigation, the Bureau notified the TGA of its  
13 recommendation to deny Respondent’s Tribal Key Employee application. The Chumash  
14 terminated Respondent’s employment, and the Bureau abandoned Respondent’s Finding of  
15 Suitability application on or about April 24, 2017. Finally, in another written response that  
16 Respondent provided to the Bureau dated June 18, 2018, Respondent admitted that when he had  
17 applied for his key license when he worked for the Chumash, he was dishonest.

18 (Bus. & Prof. Code §§ 19856, 19857, subds. (a) & (b) & 19859; Cal. Code. Regs., tit. 4, § 12105,  
19 subds. (a)(1) & (a)(2) [mandatory denials].)

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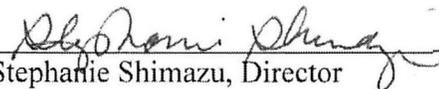
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**PRAYER**

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 a work permit; and
2. Taking such other and further action as the Commission may deem appropriate.

Dated: July 31, 2019.

  
Stephanie Shimazu, Director  
Bureau of Gambling Control  
California Department of Justice  
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 or  
4 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 associated  
9 with controlled gambling activities.

10 4. Business and Professions Code section 19870 provides:

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

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

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

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

26 (e) A decision of the commission denying a license or approval,  
27 or imposing any condition or restriction on the grant of a license or  
28 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 court finds that  
the action of the commission was arbitrary and capricious, or that the  
action exceeded the commission's jurisdiction.

5. Business and Professions Code section 19871 provides:

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

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

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

4 (A) To call and examine witnesses.

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

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

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

11 (E) To offer rebuttal evidence.

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

14 (4) The meeting need not be conducted according to  
15 technical rules relating to evidence and witnesses. Any relevant  
16 evidence may be considered, and is sufficient in itself to support a  
17 finding, if it is the sort of evidence on which responsible persons  
18 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.

19 (b) Nothing in this section confers upon an applicant a right to  
20 discovery of the department's<sup>[3]</sup> investigative reports or to require  
21 disclosure of any document or information the disclosure of which is  
22 otherwise prohibited by any other provision of this chapter.

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

24 (d) Application for a work permit for use in any jurisdiction  
25 where a locally issued work permit is not required by the licensing  
authority of a city, county, or city and county, shall be made to the

26 \_\_\_\_\_  
27 <sup>3</sup> Hereinafter, "department" refers to the Department of Justice, Bureau of Gambling  
Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 department, and may be granted or denied for any cause deemed  
2 reasonable by the commission. . . .

3 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

4 7. Business and Professions Code section 19856, provides:

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

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

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

20 8. Business and Professions Code section 19857 provides:

21 No gambling license shall be issued unless, based on all 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.

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

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9. Business and Professions Code section 19859 provides in pertinent 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 the 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 to a material fact pertaining to the qualification criteria.

10. 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.

11. 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.