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

13
 14 **In the Matter of the Statement of**
 15 **Particulars for:**
 16 **OUTLAWS 101 LLC (GEOW-003824);**
 17 **JOHN WRONA, Managing Member**
 18 **(GEOW-003825); and THOMAS**
 19 **BARTLETT, Member (GEOW-003826),**
 20 **Respondents.**

CGCC Case No. CGCC-2020-0924-5B
 BGC Case No. CGB-HQ2020-00025SL
STATEMENT OF PARTICULARS
 Hearing Dates: March 22-24 and 26, 2021
 Hearing Time: 10:00 A.M.
 Place: 2399 Gateway Oaks, Suite 100
 Sacramento, CA 95833

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Stephanie K. Shimazu (Complainant) submits this Statement of Particulars solely in
4 her official capacity as Director of the California Department of Justice, Bureau of Gambling
5 Control (Bureau).

6 2. On May 3, 2017, the Bureau received initial Applications for State Gambling License
7 (collectively, Applications) from respondent Outlaws 101 LLC, its managing member respondent
8 John Wrona (Mr. Wrona), and member respondent Thomas Bartlett (collectively Respondents).
9 If the Applications are approved, Respondents will be the owners of Outlaws Card Parlour
10 located at 9850 East Front Road, Atascadero, California (Card Room). The Card Room is
11 currently owned and operated by Ms. Dora Brown.¹

12 3. On or about June 30, 2020, the Bureau sent its Initial Background Investigation
13 Report Level III for Respondents to the California Gambling Control Commission (Commission),
14 recommending denial of the Applications. The Bureau sent an addendum letter to the
15 Commission on September 14, 2020, recommending the Commission approve the Applications
16 subject to conditions.

17 5. At its September 24, 2020 meeting, the Commission referred the Applications to an
18 evidentiary hearing to be held pursuant to the Gambling Control Act (Act) and California Code of
19 Regulations, title 4, section 12060.

20 6. Respondents submitted a timely Notice of Defense, which is dated October 1, 2020.

21 **JURISDICTION AND BURDEN OF PROOF**

22 7. The Commission has jurisdiction over the operation and concentration of gambling
23 establishments and all persons and things having to do with the operation of gambling
24 establishments. (Bus. & Prof. Code, §§ 19811, subd. (b), 19850, 19855.)² The Commission's

25 _____
26 ¹ Ms. Brown, license number GEOW-002950, doing business as Outlaws Card Parlour,
27 license number, GEGE-001176, is the respondent in a pending accusation that was filed with the
28 Commission on June 22, 2020. A hearing has not been set.

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

1 responsibilities include assuring that licenses are not issued to unqualified or disqualified persons
2 and that no unqualified or disqualified person is materially involved with a licensed gambling
3 operation. (Bus. & Prof. Code, § 19823, subd. (a).) The Commission has all powers necessary
4 and proper to carry out the Act's policies and purposes, including the powers to discipline
5 licensees and to take actions to ensure that no ineligible, unqualified, disqualified, or unsuitable
6 persons are associated with controlled gambling activities. (Bus. & Prof. Code, § 19824, subds.
7 (b) & (d).)

8 8. Respondents have the burden of proving that they are suitable for licensure and
9 qualified to hold state gambling licenses. (Bus. & Prof. Code, § 19856, subd. (a).)

10 **LICENSURE CONSIDERATIONS**

11 **(Factors in Aggravation and Mitigation)**

12 9. The Bureau based its June 30, 2020 denial recommendation on an event that took
13 place on March 17, 2019, and was recorded on the Card Room's surveillance video. A video
14 recording, which the Bureau obtained, shows Mr. Wrona, who was not licensed in any capacity in
15 connection with the Card Room's operations, making a hand gesture indicating that the cage
16 cashier should not sell chips to a patron. The cashier then left the cage and spoke with Mr.
17 Wrona. That conversation was not audible on the surveillance video because it occurred beyond
18 the video camera's microphone range. When the cashier returned to the cage, he asked if the
19 patron had spoken to Ms. Brown. Ms. Brown simultaneously called the cage and apparently
20 informed the cashier that she had an issue with that particular patron.

21 10. Respondent Outlaws 101 LLC owns the restaurant located in the same building as the
22 Card Room. Mr. Wrona manages that restaurant. Mr. Wrona also co-owns the property on which
23 the Card Room is situated. He was also a regular patron of the Card Room. He further is the
24 managing member of the Card Room's prospective owner. At the time of the incident described
25 in paragraph 9 above, Mr. Wrona thus was regularly in and around the Card Room. The incident
26 described in paragraph 9 above is the only evidence presently in the Bureau's possession that Mr.
27 Wrona may have had influence on Card Room operations.

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CONCLUSION

WHEREFORE, Director Shimazu requests that following the hearing to be held on the matters herein alleged, the Commission take such action as it may deem appropriate.

Dated: January ____, 2021

STEPHANIE K. SHIMAZU, Director
Bureau of Gambling Control
California Department of Justice

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APPENDIX A

1. Business and Professions Code section 19801 provides, in part:

(h) Public trust and confidence can only be maintained by strict comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture and distribution of permissible gambling equipment.

(i) All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all manufacturers, sellers, and distributors of gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.

* * *

(k) Any license or permit issued, or other approval granted pursuant to this chapter, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder.

2. Business and Professions Code section 19805 provides, in part:

(d) “Chief” means the head of the entity within the department that is responsible for fulfilling the obligations imposed upon the department by this chapter.

(e) “Commission” means the California Gambling Control Commission.

* * *

(h) “Department” means the Department of Justice.

* * *

(m) “Gambling enterprise” means a natural person or an entity, whether individual, corporate, or otherwise, that conducts a gambling operation and that by virtue thereof is required to hold a state gambling license under this chapter.

* * *

(o) “Gambling establishment,” “establishment,” or “licensed premises” except as otherwise defined in Section 19812, means one or more rooms where any controlled gambling or activity related thereto occurs.

1 (p) "Gambling license" or "state gambling license" means any
2 license issued by the state that authorizes the person named therein to
3 conduct a gambling operation.

4 (q) "Gambling operation" means exposing for play one or more
5 controlled games that are dealt, operated, carried on, conducted, or
6 maintained for commercial gain.

7 * * *

8 (z) "License" means a gambling license, key employee license, or
9 any other license issued by the commission pursuant to this chapter or
10 regulations adopted pursuant to this chapter.

11 * * *

12 (ad) "Owner licensee" means an owner of a gambling enterprise
13 who holds a state gambling license.

14 3. Business and Professions Code section 19811 provides, in part:

15 (b) Jurisdiction, including jurisdiction over operation and
16 concentration, and supervision over gambling establishments in this state
17 and over all persons or things having to do with the operations of
18 gambling establishments is vested in the commission.

19 4. Business and Professions Code section 19823 provides:

20 (a) The responsibilities of the commission include, without
21 limitation, all of the following:

22 (1) Assuring that licenses, approvals, and permits are not
23 issued to, or held by, unqualified or disqualified persons, or by
24 persons whose operations are conducted in a manner that is
25 inimical to the public health, safety, or welfare.

26 (2) Assuring that there is no material involvement, directly
27 or indirectly, with a licensed gambling operation, or the
28 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.

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

2 The commission shall have all powers necessary and proper to enable
3 it fully and effectually to carry out the policies and purposes of this
4 chapter, including, without limitation, the power to do all of the following:

5 * * *

6 (b) For any cause deemed reasonable by the commission, deny
7 any application for a license, permit, or approval provided for in this
8 chapter or regulations adopted pursuant to this chapter limit, condition,
9 or restrict any license, permit, or approval, or impose any fine upon any
10 person licensed or approved. The commission may condition, restrict,
discipline, or take action against the license or an individual owner
endorsed on the license certificate of the gambling enterprise whether
or not the commission takes action against the license of the gambling
enterprise.

11 * * *

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

14 6. Business and Professions Code section 19826 provides, in part:

15 The department . . . shall have all of the following responsibilities:

16 * * *

17 (c) To investigate suspected violations of this chapter or laws
18 of this state relating to gambling

19 * * *

20 (e) To initiate, where appropriate, disciplinary actions as
21 provided in this chapter. In connection with any disciplinary action,
22 the department may seek restriction, limitation, suspension, or
23 revocation of any license or approval, or the imposition of any fine
upon any person licensed or approved.

24 7. Business and Professions Code section 19850 provides:

25 Every person who, either as owner, lessee, or employee, whether for
26 hire or not, either solely or in conjunction with others, deals, operates,
27 carries on, conducts, maintains, or exposes for play any controlled game
28 in this state, or who receives, directly or indirectly, any compensation or
reward, or any percentage or share of the money or property played, for
keeping, running, or carrying on any controlled game in this state, shall

1 apply for and obtain from the commission, and shall thereafter maintain,
2 a valid state gambling license, key employee license, or work permit, as
3 specified in this chapter. In any criminal prosecution for violation of this
4 section, the punishment shall be as provided in Section 337j of the Penal
5 Code.

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10 8. Business and Professions Code section 19855 provides, in part:

11 Except as otherwise provided by statute or regulation, every person
12 who, by statute or regulation, is required to hold a state license shall
13 obtain the license prior to engaging in the activity or occupying the
14 position with respect to which the license is required.

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21 9. Business and Professions Code section 19856 provides:

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

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

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

22 10. Business and Professions Code section 19857 provides:

23 No gambling license shall be issued unless, based on all of the
24 information and documents submitted, the commission is satisfied that the
25 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 any,
28 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,

1 unfair, or illegal practices, methods, and activities in the conduct of
2 controlled gambling or in the carrying on of the business and
3 financial arrangements incidental thereto.

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

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

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

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

11 12. Business and Professions Code section 19870 provides:

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

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

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

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

27 (e) A decision of the commission denying a license or approval,
28 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 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.

13. 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
6 of the case.

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

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

12 (E) To offer rebuttal evidence.

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

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

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

28 14. Business and Professions Code section 19920 provides:

It is the policy of the State of California to require that all
establishments wherein controlled gambling is conducted in this state be
operated in a manner suitable to protect the public health, safety, and
general welfare of the residents of the state. The responsibility for the
employment and maintenance of suitable methods of operation rests with
the owner licensee, and willful or persistent use or toleration of methods
of operation deemed unsuitable by the commission or by local
government shall constitute grounds for license revocation or other
disciplinary action.

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

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15. Business and Professions Code section 19971 provides:

This act is an exercise of the police power of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes.

16. California Code of Regulations, title 4, section 12056 provides, in part:

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

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

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

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

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

- (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

1 complainant, at least 30 calendar days prior to the GCA hearing, the
2 following items:

3 (1) A list of potential witnesses with the general subject of the
4 testimony of each witness;

5 (2) Copies of all documentary evidence intended to be
6 introduced at the hearing and not previously provided;

7 (3) Reports or statements of parties and witnesses, if available;
8 and

9 (4) All other written comments or writings containing relevant
10 evidence.

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

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

20 (A) Evidentiary issues;

21 (B) Witness and exhibit lists;

22 (C) Alterations in the Bureau recommendation;

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

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

27 (2) The GCA hearing need not be conducted according to
28 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.

(g) The Commission may, at any time upon a showing of prejudice by
the objecting party:

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(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 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.

(i) The burden of proof is on the applicant at all times to prove his, her, 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 his, her 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.

18. California Code of Regulations, title 4, section 12340, subdivision (a) provides:

No person may conduct a gambling operation without a current valid gambling license issued by the Commission.