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

14 **In the Matter of the Applications for Initial**  
15 **Key Employee License and Work Permit**  
16 **for:**  
17  
18 **SAI FO SAECHAO**  
19 [Redacted]  
20 **Respondent.**

**CGCC Case Nos.:**  
**CGCC-2018-0111-8C and**  
**CGCC-2018-0111-10B**  
**BGC Case No.: BGC-HQ2018-00006SL**

**STATEMENT OF REASONS**

21 **PARTIES**

22 1. Stephanie Shimazu submits this Statement of Reasons solely in her official capacity  
23 as the Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

24 2. On February 7, 2016, the Bureau received an Application for Gambling  
25 Establishment Key Employee License (Initial-GEKE-002177), dated February 9, 2016, submitted  
26 by Sai Fo Saechao (Respondent), to hold a key employee position as a compliance analyst at the  
27 Poker Flats Casino (Poker Flats). On February 17, 2016, the Bureau received Supplemental  
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1 Background Investigation Information Form for the key position from Respondent, dated  
2 February 9, 2016.<sup>1</sup>

3 3. On or about December 5, 2017, the Bureau issued its Cardroom Key Employee  
4 Background Investigation Report for Respondent's Key Employee Application in which it  
5 recommended that Respondent's Application be denied.

6 4. On or about January 11, 2018, the Commission considered the Key Employee  
7 Application and the Bureau's denial recommendation, and referred the question of Respondent's  
8 suitability for licensure to an evidentiary hearing, which is to be held pursuant to Business and  
9 Professions Code sections 19870 and 19871.<sup>2</sup> (Cal. Code. Regs., tit. 4, § 12060, subd. (a).)

10 5. Respondent received a work permit for employment at Poker Flats on May 17, 2010.<sup>3</sup>  
11 He allowed his work permit to lapse after he was promoted to the key employee position  
12 referenced above believing that his interim key license was sufficient to continue working, but  
13 upon being apprised that he still needed a work permit, he completed an application for temporary  
14 work permit on May 25, 2017, which was received by the Bureau on May 30, 2017. On June 2,  
15 2017, the Commission issued a temporary work permit to him.

16 6. On or about December 5, 2017, the Bureau issued its Work Permit Employee  
17 Background Investigation Report for Respondent's Work Permit Application (GEWP-001461) in  
18 which it recommended that Respondent's Application be denied. Consequently, on December 15,  
19 2017, Respondent's temporary work permit was cancelled.

20 7 On or about January 11, 2018, the Commission considered the Work Permit  
21 Application and the Bureau's denial recommendation, and referred the question of Respondent's  
22 suitability to an evidentiary hearing, which is to be held pursuant to Business and Professions  
23 Code sections 19870 and 19871. (Cal. Code. Regs., tit. 4, § 12060, subd. (a).)

24  
25 <sup>1</sup> The initial key employee application and supplemental background information form  
26 are jointly referred hereinafter as the "Key Employee Application."

27 <sup>2</sup> The statutes and regulations applicable to this Statement of Reasons are quoted in  
28 pertinent part in Appendix A.

<sup>3</sup> Respondent has licensure history from 2000, which is not relevant here.



1 large unexplained cash deposits and unexplained large monetary gifts well above  
2 his regular income renders him unsuitable for licensure. (Bus. & Prof. Code, §§  
3 19856, 19857, subds. (a) & (b), 19866 & 19914, subd. (a)(3); Cal. Code. Regs., tit.  
4 4, §§ 12105, subd. (a) [mandatory denial] & 12355, subd. (a)(1) [mandatory  
5 denial].)

6 **SECOND CAUSE FOR DENIAL**

7 **(Failure to Disclose, Failure to Provide Requested and Required Information to the Bureau)**

8 12. The allegations in paragraph 11, above, are incorporated herein by this reference.

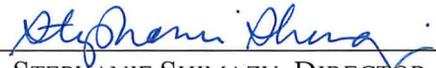
9 13. Respondent's Key Employee Application and Work Permit Application are subject to  
10 denial because Respondent did not disclose and/or supplied inadequate information material to  
11 his qualifications for licensure. In response to the Bureau's inquiry, Respondent failed to supply  
12 complete information and failed to adequately explain the very large cash deposits that he  
13 received in 2015 and 2016. (Bus. & Prof. Code, §§ 19856, subds. (a) & (b), 19857, subds. (a) &  
14 (b), 19859, subds. (a) & (b) [mandatory denial], 19866 & 19914, subd. (a)(3); Cal. Code. Regs.,  
15 tit. 4, §§ 12105, subds. (a) [mandatory denial] & (b) [discretionary denial] & 12355, subd. (a)(1)  
16 [mandatory denial].)

17 **PRAYER**

18 WHEREFORE, Bureau Director Shimazu requests that following the hearing to be held on  
19 the matters herein alleged, the Commission issue a decision:

- 20 1. Denying Respondent's Key Employee Application,  
21 2. Denying Respondent's Work Permit Application; and  
22 3. Taking such other and further action as the Commission may deem appropriate.

23  
24 Dated: July 19, 2018

25   
26 STEPHANIE SHIMAZU, DIRECTOR  
27 California Department of Justice  
28 Bureau of Gambling Control  
Complainant

1 **APPENDIX A – STATUTORY AND REGULATORY PROVISIONS**

2 **JURISDICTION**

- 3 1. Business and Professions Code section 19811, subdivision (b), provides:

4 Jurisdiction, including jurisdiction over operation and  
5 concentration, and supervision over gambling establishments in this  
6 state and over all persons or things having to do with the operation of  
7 gambling establishments is vested in the commission.

- 8 2. Business and Professions Code section 19823 provides:

9 (a) The responsibilities of the commission include, without  
10 limitation, all of the following:

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

15 (2) Assuring that there is no material involvement, directly  
16 or indirectly, with a licensed gambling operation, or the  
17 ownership or management thereof, by unqualified or disqualified  
18 persons, or by persons whose operations are conducted in a  
19 manner that is inimical to the public health, safety, or welfare.

20 (b) For the purposes of this section, "unqualified person" means  
21 a person who is found to be unqualified pursuant to the criteria set  
22 forth in Section 19857, and "disqualified person" means a person who  
23 is found to be disqualified pursuant to the criteria set forth in Section  
24 19859.

- 25 3. Business and Professions Code section 19824 provides in part:

26 The commission shall have all powers necessary and proper to  
27 enable it fully and effectually to carry out the policies and purposes of  
28 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 person licensed or approved. The  
commission may condition, restrict, discipline, or take action  
against the license of 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.

\* \* \*

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

3 4. Business and Professions Code section 19854, subdivision (a), provides:

4 Every key employee shall apply for and obtain a key employee  
5 license.

6 5. Business and Professions Code section 19870 provides:

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

11 (b) When the commission grants an application for a license or  
12 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.

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

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

17 (e) A decision of the commission denying a license or approval,  
18 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  
19 Code of Civil Procedure. Section 1094.5 of the Code of Civil  
20 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.

21 6. Business and Professions Code section 19871 provides:

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

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

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

26 (A) To call and examine witnesses.

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

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

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

(E) To offer rebuttal evidence.

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

(4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of 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.

(b) Nothing in this section confers upon an applicant a right to discovery of the department's<sup>[4]</sup> 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.

7. Business and Professions Code section 19912 provides:

(a)

(1) A person shall not be employed as a gambling enterprise employee, or serve as an independent agent, except as provided in paragraph (2), unless he or she is the holder of one of the following:

\* \* \* \*

(B) A work permit issued by the commission pursuant to regulations adopted by the commission for the issuance and renewal of work permits. A work permit issued by the commission shall be valid for two years.

\* \* \* \*

(c) The department may object to the issuance of a work permit by a city, county, or city and county for any cause deemed reasonable by the department, and if the department objects to issuance of a work permit, the work permit shall be denied.

(1) The commission shall adopt regulations specifying

<sup>4</sup> "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

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particular grounds for objection to issuance of, or refusal to issue, a work permit.

(2) The ordinance of any city, county, or city and county relating to issuance of work permits shall permit the department to object to the issuance of any permit.

(3) Any person whose application for a work permit has been denied because of an objection by the department may apply to the commission for an evidentiary hearing in accordance with regulations.

\* \* \* \*

(e) An order of the commission denying an application for, or placing restrictions or conditions on, a work permit, including an order declining to issue a work permit following review pursuant to paragraph (3) of subdivision (c), may be reviewed in accordance with subdivision (e) of Section 19870.

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

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 . . .

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

(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 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 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. The Commission retains the authority to refer the matter to an APA hearing pursuant to subsection (a) of Section 12056 or hear the matter at a Section 12054 meeting if the Commission deems it appropriate.

(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.

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

6 (1) A member of the Commission's legal staff; or,

7 (2) An Administrative Law Judge.

8 (d) The applicant or the complainant, or the applicant and the  
9 complainant, may request a continuance in writing to the Executive  
10 Director stating the reason for the continuance and any proposed  
11 future hearing dates. The Executive Director or Commission may  
12 approve the request.

13 (e) The complainant shall provide to the applicant, at least 45  
14 calendar days prior to the GCA hearing, and the applicant shall  
15 provide to the complainant, at least 30 calendar days prior to the GCA  
16 hearing, the following items:

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

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

21 (3) Reports or statements of parties and witnesses, if  
22 available; and

23 (4) All other written comments or writings containing  
24 relevant evidence.

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

28 (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 shall 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;

(B) Witness and exhibit lists;

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(C) Alterations in the Bureau recommendation;

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

(E) 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.

(g) 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 (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

1 any witness, regardless of which party first called the witness to  
2 testify; and to offer rebuttal evidence. If the applicant does not testify  
3 on his, her or its own behalf, the applicant may be called and  
4 examined, under oath, as if under cross-examination.

5 (l) Oral evidence shall be taken upon oath or affirmation,  
6 which may be administered by the Executive Director, a member  
7 of the Commission, or the presiding officer, if an Administrative  
8 Law Judge.

9 (m) At the conclusion of the evidentiary hearing, the members  
10 of the Commission shall take the matter under submission, may  
11 discuss the matter in a closed session meeting, and may schedule  
12 future closed session meetings for deliberation.

### 13 SPECIFIC STATUTORY AND REGULATORY PROVISIONS

14 10. Business and Professions Code section, subdivision (b) provides:

15 No person may be issued a key employee license unless the  
16 person would qualify for a state gambling license.

17 11 Business and Professions Code section 19856 states:

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

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

28 (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.

12. Business and Professions Code section 19857 provides in part:

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

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

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(b) A person whose prior activities, criminal record, if 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.

13. Business and Professions Code section 19859 provides, in 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 this 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 as to a material fact pertaining to the qualification criteria.

14. Business and Professions Code section 19866 provides:

An applicant for licensing or for any approval or consent required 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.

15. Business and Professions Code section 19914 provides:

(a) The commission may revoke a work permit or, if issued by the licensing 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 gambling enterprise employee or independent agent has failed to disclose, misstated, or otherwise 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:

\* \* \* \*

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

16. California Code of Regulations, title 4, section 12105, provides:

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

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(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.

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

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

17. California Code of Regulations, title 4, section 12355, subdivision (a)(1)

(a) An application for a portable personal key employee license shall be denied by the Commission if any of the following applies:

(1) The Commission finds that the applicant is ineligible, unqualified, disqualified, or unsuitable pursuant to the criteria set forth in the Act or other applicable law or that granting the license would be inimical to public health, safety, welfare, or would undermine the public trust that gambling operations are free from criminal or dishonest elements.