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

13
14 **In the Matter of the Statement of Issues**
Against:

15
16 **JOSEPH FREDERICK CAPPS**

17 

18 **License No. TPPL-006948**

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20
21 **Respondent.**

BGC No. BGC-HQ2015-00024SL

CGCC No. _____

OAH No. _____

STATEMENT OF ISSUES

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23 **PARTIES**

24 1. Wayne J. Quint, Jr., brings this Statement of Issues solely in his official capacity as
25 the Chief of the California Department of Justice, Bureau of Gambling Control (Bureau).

26 2. On or about November 28, 2009, the Bureau received Respondent's application for a
27 third party license as a player for Pacific Gaming Services, LLC. On April 9, 2010, the Bureau
28 submitted an initial level II Third Party background investigation to the California Gambling

1 Control Commission (Commission) recommending approval. On May 12, 2011, the Commission
2 approved Respondent's third party license as a player for Pacific Gaming Services, LLC, and
3 issued third party player license TPPL-6948 to Respondent, with an expiration date of May 31,
4 2013. Respondent has been continuously held a third party player license since then.

5 3. On or about January 17, 2015, Respondent submitted a third party player license
6 renewal application for Pacific Gaming Services, LLC, to the Bureau.

7 4. On October 16, 2015, the Bureau recommended that the Commission deny
8 Respondent's renewal application on the basis of Respondent's participation in, and failure to
9 disclose, a joint venture agreement and financing arrangement concerning the Clovis 500 Club.

10 5. On November 19, 2015, the Commission did not deny Respondent's application for a
11 third party player license, nor did it renew Respondent's third party player license. Rather, it
12 referred the determination of Respondent's suitability for continued licensure to a hearing to be
13 held before an administrative law judge of the Office of Administrative Hearings, sitting on
14 behalf of the Commission, pursuant to California Code of Regulations, title 4, section 12058.¹
15 Respondent's third party player license expired on November 30, 2015. However, on November
16 19, 2015, the Commission issued Respondent an interim renewal license which is valid pending
17 the outcome of this matter, or until November 30, 2017, whichever is earlier. (Cal. Code Regs.,
18 tit. 4, § 12035, subd. (b)(2).)

19 **STATEMENT OF THE CASE**

20 6. On or about November 11, 2011, Respondent entered into a joint venture agreement
21 facilitated by and through the agency of John Cardot under which Respondent and others,
22 including Cardot, would lend a total of approximately \$1,500,000 to licensee Louis Sarantos,
23 owner of the Clovis 500 Club Casino, for the purpose of financing the relocation of the Clovis
24 500 Club Casino, including tenant improvements associated therewith. In consideration of this
25 aggregate loan, the participants in the joint venture, including Respondent, were to receive both
26 interest payments and options to purchase certain percentage interests in the Clovis 500 Club

27 ¹ The statutes and regulations applicable to this Statement of Issues are quoted in
28 pertinent part in Appendix A.

1 Casino after the improvements had been completed, the relocated club was operating, and a
2 corporation had been formed to facilitate the transfer of the percentage interests to the joint
3 venture participants. By acting in the manner herein alleged, Respondent acquired a financial
4 interest in the Clovis 500 Club Casino.

5 **FIRST CAUSE FOR DENIAL**

6 **(Failure to Disclose Financial Interest)**

7 7. By acting in the manner alleged in paragraph 6, above, Respondent acquired a
8 financial interest in the Clovis 500 Club. At no time subsequent to November 11, 2011, including
9 at the time(s) of Respondent's periodic license renewal applications, did Respondent disclose his
10 financial interest in the Clovis 500 Club Casino. By acting in the manner herein alleged,
11 Respondent conspired with the other participants in the joint venture, including Louis Sarantos, to
12 conceal from the Bureau and Commission the sources of financing for the relocation of the Clovis
13 500 Club Casino, and thus precluded the Bureau's investigation of the funding sources and the
14 Commission's discretionary licensing thereof pursuant to the Act.

15 8. Because Respondent acted in the manner herein alleged, Respondent's Third Party
16 Player license application is subject to denial pursuant to Business and Professions Code sections
17 19854, 19857, subdivisions (a) and (b), 19859, subdivision (b), and 19866.

18 **PRAYER**

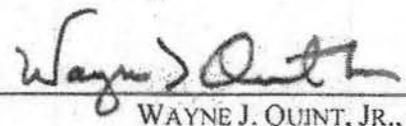
19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Commission issue a decision to:

- 21 1. Deny the renewal of Third Party Player license No. TPPL-6948, issued to Joseph
22 Capps;
- 23 2. Order the Respondent to pay the department the reasonable costs of investigation and
24 prosecution of the case pursuant to Business and Professions Code section 19930; and
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3. Take such other and further action as the Commission may deem appropriate.

Dated: September 9, 2016



WAYNE J. QUINT, JR., Chief
Bureau of Gambling Control
California Department of Justice
Complainant

1 APPENDIX A

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
12 not issued to, or held by, unqualified or disqualified persons,
13 or by persons whose operations are conducted in a manner
14 that is inimical to the public health, safety, or welfare.

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

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

29 (b) For any cause deemed reasonable by the commission, deny
30 any application for a license, permit, or approval provided for in this
31 chapter or regulations adopted pursuant to this chapter, limit, condition,
32 or restrict any license, permit, or approval, or impose any fine upon any
33 person licensed or approved. The commission may condition, restrict,
34 discipline, or take action against the license of an individual owner
35 endorsed on the license certificate of the gambling enterprise whether or
36 not the commission takes action against the license of the gambling
37 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 19984, subdivision (b), provides:, in part:

4 The commission shall . . . require the licensure and registration of,
5 any person or entity that provides proposition player services at
6 gambling establishments pursuant to this section, including owners,
supervisors, and players.

7 5. Business and Professions Code section 19854, subdivision (a), provides:

8 Every key employee shall apply for and obtain a key employee
9 license.

10 6. California Code of Regulations, title 4, section 12035, provides, in part:

11 (b) (2) An interim renewal license shall be valid for a period of
12 two years from the date the previous license expires, or until a
13 decision is final under Section 12066, whichever is earlier, and is not
14 subject to renewal. The Commission may issue additional interim
renewal licenses if the hearing process has not been, or will not be,
included by the expiration date of the current interim renewal license.

15 7. California Code of Regulations, title 4, section 12058, provides, in part:

16 (a) When the Commission elects to hold an APA hearing the
17 Commission shall determine whether the APA hearing will be held
18 before an Administrative Law Judge sitting on behalf of the
19 Commission or before the Commission itself with an Administrative
20 Law Judge presiding in accordance with Government Code section
11512. Notice of the APA hearing shall be provided to the applicant
pursuant to Government Code section 11500 et seq.

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

23 (c) A Statement of Issues shall be prepared and filed in
24 according to Government Code section 11504 by the complainant.

25 **Costs**

26 8. Business and Professions Code section 19930, subdivision (d), provides, in part:

27 (d) In any case in which the administrative law judge
28 recommends that the commission revoke, suspend, or deny a license,

1 the administrative law judge may, upon presentation of suitable proof,
2 order the licensee or applicant for a license to pay the department the
reasonable costs of the investigation and prosecution of the case.

3 (1) The costs assessed pursuant to this subdivision shall
4 be fixed by the administrative law judge and may not be
5 increased by the commission. When the commission does not
6 adopt a proposed decision and remands the case to the
7 administrative law judge, the administrative law judge may not
increase the amount of any costs assessed in the proposed
decision.

8 (2) The department may enforce the order for payment
9 in the superior court in the county in which the administrative
10 hearing was held. The right of enforcement shall be in addition
to any other rights that the department may have as to any
licensee directed to pay costs.

11 (3) In any judicial action for the recovery of costs, proof
12 of the commission's decision shall be conclusive proof of the
13 validity of the order of payment and the terms of payment.

14 * * *

15 (f) For purposes of this section, "costs" include costs incurred
for any of the following:

16 (1) The investigation of the case by the department.

17 (2) The preparation and prosecution of the case by the
18 Office of the Attorney General.

19 **Specific Statutory and Regulatory Provisions**

20 9. Business and Professions Code section 19856, subdivision (a) provides in part:

21 The burden of proving his or her qualifications to receive any
22 license is on the applicant.

23 10. California Code of Regulations, title 4, section 12058, subdivision (b) provides:

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

26 11. Business and Professions Code section 19857 provides in part:

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

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

(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.

12. 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:

* * *

(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.

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

14. Business and Professions Code section 19971 provides:

This act [Gambling Control 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.

15. Business and Professions Code section 19869 provides, in part:

A request for withdrawal of any application may be made at any time prior to final action upon the application by the chief by the filing of a written request to withdraw with the commission. For the purposes of this section, final action by the department means a final determination by the chief regarding his or her recommendation on the application to the commission. The commission shall not grant the request unless the applicant has established that withdrawal of the application would be consistent with the public interest and the policies of this chapter. If a request for withdrawal is denied, the department may go forward with its investigation and made a recommendation to the commission upon the

1 application, and the commission may act upon the application as if no
2 request for withdrawal had been made.

3 16. California Code of Regulations, title 4, section 12218.11 provides, in part:

4 A requester [third party player renewal] shall be ineligible for
5 licensing for any of the following causes:

6 * * *

7 (e) The requester has failed to meet the requirements of
8 Business and Professions Code sections 19856 or 19857.

9 (f) The requester would be ineligible for a state gambling
10 license under any of the criteria set forth in Business and
11 Professions Code section 19859, subdivisions (b), (e), or (f).

12 (g) The requester would be ineligible for a gambling
13 license under Business and Professions Code section 19858.

14 * * *

15 (j) The applicant is ineligible based on any other provision
16 of law.

17 17. California Code of Regulations, title 11, section 2030 provides, in part:

18 (a) An applicant or licensee may designate a person(s) to
19 serve as agent(s), on a form Appointment of Designated Agent, BGC-
20 APP. 008 (Rev. 11/07), incorporated by reference into Title 4, CCR,
21 section 12342. The Bureau retains the right to exercise its discretion
22 to disapprove, in whole or in part, such designation.
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