

1 XAVIER BECERRA
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 TIMOTHY M. MUSCAT
Deputy Attorney General, SBN 148944
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 210-7779
6 Fax: (916) 327-2319
E-mail: Timothy.Muscat@doj.ca.gov
7 *Attorneys for the Bureau of Gambling Control*



8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**

14 **In the Matter of the Statement of**
15 **Particulars for the Application for Approval**
16 **of Third-Party Proposition Player License**
17 **for**
18 **v.**
19 **KIN PING WONG**
20 **Respondent.**

BGC Case No. BGC-HQ2017-000015SL
CGCC Case No: CGCC-2017-0828-10B
STATEMENT OF PARTICULARS

21
22 The Bureau of Gambling Control (Bureau) alleges as follows:

23 **PARTIES**

- 24 1. Nathan DaValle, submits this Statement of Particulars solely in his official capacity
25 as the Acting Director of the Bureau.
26 2. On or about June 16, 2016, the Bureau received an Application for a Third-Party
27 Proposition Player Services License for Supervisor, Player or Other Employee and a Level I
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1 Supplemental Information (collectively, Application) from Kin Ping Wong (Applicant).
2 Applicant was previously issued a registration on or about April 3, 2007, to work as a third-party
3 proposition player (prop player) for Pacific Palace, Inc (Pacific Palace). Applicant worked at
4 Pacific Palace from January 2006 to January 2010. Applicant's previous registration was
5 converted to a license effective on or about August 21, 2008, and this license remained in effect
6 until on or about January 18, 2010, when it became null and void due to her transfer in February
7 2010 to Metis TPS, LLC (Metis). Applicant was issued a registration on or about January 19,
8 2010, to work as a prop player at Metis, and she has remained employed at Metis since then.

9 3. In July 2017, the Bureau sent a Third-Party Player Background Investigation Report
10 to the California Gambling Control Commission (Commission) in which the Bureau
11 recommended that Applicant's Application for a license be approved.

12 4. At its August 28, 2017 meeting, the Commission referred consideration of
13 Applicant's Application to an evidentiary hearing to be conducted as a Gambling Control Act
14 hearing pursuant to California Code of Regulations Title 4, Division 18, Chapter 1, section
15 12060. This hearing shall be conducted to determine Applicant's qualifications and suitability for
16 licensure in accordance with Business and Professions Code sections 19856, 19857, and 19859.

17 5. On or about September 12, 2017, Applicant submitted a Notice of Defense, dated
18 September 8, 2017.

19 **BURDEN OF PROOF**

20 6. Applicant has the burden to prove that she is qualified and suitable to be issued a prop
21 player services license. (Bus. & Prof. Code, § 19856, subd. (a).)

22 **LICENSURE CONSIDERATIONS**

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

24 7. On or about October 16, 1996, Applicant entered a plea of guilty to a violation of
25 Penal Code section 550, subdivision (a)(4), filing a false claim regarding the loss of a motor
26 vehicle, a felony, in the case of *People of the State of California v. Kin Ping Wong* (Super. Ct.
27 Los Angeles County, 1996, No. BA 129658). Applicant was sentenced to three years of
28 probation, to pay a restitution fine, and to perform community service.

1 * * *

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

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

6 The commission, by regulation or order, may require that the following persons
7 register with the commission, apply for a finding of suitability as defined in
8 subdivision (i) of 19805, or apply for a gambling license:

9 * * *

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

12 5. Business and Professions Code section 19870 provides:

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

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

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

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

28 (e) A decision of the commission 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 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.

6. 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
6 the case.

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

10 (D) To impeach any witness, regardless of which
11 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
14 behalf, 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
18 relevant evidence may be considered, and is sufficient in itself
19 to support a finding, if it is the sort of evidence on which
20 responsible persons are accustomed to rely in the conduct of
21 serious affairs, regardless of the existence of any common law
22 or statutory rule that might make improper the admission of
23 that evidence over objection in a civil action.

24 (b) Nothing in this section confers upon an applicant a right
25 to discovery of the department's^[1] investigative reports or to
26 require disclosure of any document or information the disclosure of
27 which is otherwise prohibited by any other provision of this
28 chapter.

7. California Code of Regulations, title 4, section 12054, subdivision (a)(2) provides:

(a) At a non-evidentiary hearing meeting, the Commission
may take, but is not limited to taking, one of the following actions:

* * *

(2) Elect to hold an evidentiary hearing in accordance
with Section 12056 and, when for a renewal application, issue
an interim renewal license pursuant to Section 12035. The
Commission shall identify those issues for which it requires

¹ "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

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additional information or consideration related to the applicant's suitability.

- 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.

- (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

1 future hearing dates. The Executive Director or Commission may
2 approve the request.

3 (e) The complainant shall provide to the applicant, at least 45
4 calendar days prior to the GCA hearing, and the applicant shall
5 provide to the complainant, at least 30 calendar days prior to the
6 GCA hearing, the following items:

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

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

11 (3) Reports or statements of parties and witnesses, if
12 available; and

13 (4) All other written comments or writings containing
14 relevant evidence.

15 (f) A presiding officer shall rule on the admissibility of
16 evidence and on any objections raised except for objections raised
17 under subsection (g). A ruling by the presiding officer shall be
18 final.

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

26 (A) Evidentiary issues;

27 (B) Witness and exhibit lists;

28 (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

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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 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

1 the Commission, or the presiding officer, if an Administrative Law
2 Judge.

3 (m) At the conclusion of the evidentiary hearing, the
4 members of the Commission shall take the matter under
5 submission, may discuss the matter in a closed session meeting, and
6 may schedule future closed session meetings for deliberation.

7 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

- 8 10. Business and Professions Code section 19856, subdivision (a) provides in part:

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

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

12 No gambling license shall be issued unless, based on all the
13 information and documents submitted, the commission is satisfied
14 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,
17 and associations do not pose a threat to the public interest of this state, or to the
18 effective regulation and control of controlled gambling, or create or enhance the
19 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the
20 conduct of controlled gambling or in the carrying on of the business and
21 financial arrangements incidental thereto.

22 **THIRD-PARTY PROPOSITION PLAYER PROVISIONS**

- 23 12. Business and Professions Code section 19984, subdivision (b), provides, in part:

24 The commission shall establish reasonable criteria for, and require the licensure and
25 registration of, any person or entity that provides proposition player services to
26 gambling establishments pursuant to this section, including owners, supervisors, and
27 players . . . The commission may impose licensing requirements, disclosures,
28 approvals, conditions, or limitations as it deems necessary to protect the integrity of
controlled gambling in this state . . .

13. California Code of Regulations, title 4, section 12200.3, subdivision (g), provides:

Registrations, licenses, and badges are specific to the primary owner. Third party
proposition player services cannot be provided without first applying for and
obtaining a registration, license, or badge.

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14. California Code of Regulations, title 4, section 12200.7, subdivisions (b)(8) and (b)(9), provide:

(b) . . . * * *

(8) That proposition player services shall be provided in the gambling establishment only in compliance with laws and regulations pertaining to controlled gambling.

(9) That proposition player services may be provided only by authorized players with current registration or licensing under this chapter.