

1 KAMALA D. HARRIS
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 RONALD DIEDRICH
Deputy Attorney General
4 State Bar No. 95146
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-1043
Fax: (916) 327-2319
7 E-mail: Ronald.Diedrich@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**
12

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

BGC Case No. BGC-HQ2012-00011AL

OAH No. _____

16
17 **JOSHUA ALLEN HAMILTON**
[REDACTED]

18 STATEMENT OF ISSUES

19
20 **Respondent.**



21
22 Complainant alleges as follows:

23 **PARTIES**

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

27 2. On or about August 11, 2010, Joshua Allen Hamilton (Respondent) was issued
28 registration number TPPL-008545 by the California Gambling Control Commission

1 (Commission). This allows Respondent's employment as a third-party proposition player for
2 Gaming Management, LLC,¹ a licensed provider of third-party proposition player services, while
3 his application² to convert his registration to a license as a third-party proposition player is under
4 consideration. Respondent's registration will expire on May 15, 2014, unless extended by the
5 Commission.

6 3. On or about September 8, 2010, Respondent submitted to the Commission his
7 application for licensure.

8 4. At its August 9, 2012 meeting the Commission voted to deny Respondent's
9 application.

10 5. At that August 9, 2012 Commission meeting, Respondent orally requested a hearing
11 to challenge the Commission's denial of his application.

12 JURISDICTION

13 6. Business and Professions Code section 19811, subdivision (b), provides:

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

17 7. Business and Professions Code section 19823 provides:

18 (a) The responsibilities of the commission include, without
19 limitation, all of the following:

20 (1) Assuring that licenses, approvals, and permits are
21 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.

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

26 ¹ Gaming Management, LLC, subsequently became PT Gaming, LLC.

27 ² Hereinafter "application" refers collectively to Respondent's Application For Third-
Party Player Services License for Supervisor, Player or Other Employee CGCC-434 and his
28 Level 1 Supplemental Information BGC-App.032.

1 (b) For the purposes of this section, "unqualified person" means
2 a person who is found to be unqualified pursuant to the criteria set
3 forth in Section 19857, and "disqualified person" means a person who
4 is found to be disqualified pursuant to the criteria set forth in Section
5 19859.

6 8. Business and Professions Code section 19984, subdivision (b) provides in part:

7 (b) The commission shall establish reasonable criteria for, and
8 require the licensure and registration of, any person or entity that
9 provides proposition player services to a gambling establishment
10 pursuant to this section, including owners, supervisors, and players.
11 ... The commission may impose licensing requirements, disclosures,
12 approvals, conditions, or limitations as it deems necessary to protect
13 the integrity of controlled gambling in this state,

14 9. Business and Professions Code section 19824 provides in part:

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

19 * * *

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

* * *

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

COST RECOVERY

10. Business and Professions Code section 19930 provides in part:

(d) In any case in which the administrative law judge
recommends that the commission revoke, suspend, or deny a license,
the administrative law judge may, upon presentation of suitable proof,
order the licensee or applicant for a license to pay the department the
reasonable costs of the investigation and prosecution of the case.

* * *

(f) For purposes of this section, "costs" include costs incurred

1 for any of the following:

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

3 (2) The preparation and prosecution of the case by the
4 Office of the Attorney General.

5 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

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

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

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

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

13 (b) A person whose prior activities, criminal record, if any,
14 reputation, habits, and associations do not pose a threat to the public
15 interest of this state, or to the effective regulation and control of
16 controlled gambling, or create or enhance the dangers of unsuitable,
17 unfair, or illegal practices, methods, and activities in the conduct of
18 controlled gambling or in the carrying on of the business and financial
19 arrangements incidental thereto.

17 13. Business and Professions Code section 19859 provides in part:

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

20 (a) Failure of the applicant to clearly establish eligibility and
21 qualification in accordance with this chapter.^[3]

21 * * *

22 (d) Conviction of the applicant for any misdemeanor involving
23 dishonesty or moral turpitude within the 10-year period immediately
24 preceding the submission of the application, unless the applicant has
25 been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of
26 the Penal Code; provided, however, that the granting of relief pursuant
27 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not
28 constitute a limitation on the discretion of the commission under
Section 19856 or affect the applicant's burden under Section 19857.

27 ³ Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,
28 (commencing with section 19800), also known as the Gambling Control Act.

1 14. California Code of Regulations, title 4, section 12218.11 provides in part:

2 A requester [for conversion registrant to licensee] shall be
3 ineligible for licensing for any of the following causes:

4 * * *

5 (e) The requester [applicant] has failed to meet the requirements
6 of Business and Professions Code sections 19856 and 19857.

7 * * *

8 (j) The applicant [requester] is ineligible based on any other
9 provision of law.

10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(Conviction of Crime of Moral Turpitude)**

12 15. Respondent's application for licensure is subject to mandatory denial pursuant to
13 Business and Professions Code section 19859, subdivisions (a) and (d), and California Code of
14 Regulations, title 4, section 12218.11, subdivisions (e) and (j), in that the Respondent was
15 convicted of a misdemeanor involving moral turpitude for which he has not been granted relief
16 pursuant to section 1203.4, 1203.4a, or 1203.45 of the Penal Code. On or about December 29,
17 2010, Respondent was convicted of violating Penal Code section 243, subdivision (e)(1),⁴ battery
18 upon a cohabitant, a misdemeanor, in the case of *People v. Joshua Allen Hamilton* (Super. Ct.
Kern County, 2010, No. BM780246A).

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 **(Unqualified for Licensure – Criminal Convictions)**

21 16. Respondent's application for licensure is subject to denial pursuant to Business and
22 Professions Code sections 19857, subdivision (b), and 19859, subdivision (a), and California
23 Code of Regulations, title 4, section 12218.11, subdivisions (e) and (j), in that the Respondent
24

25 _____
26 ⁴ Complainant is aware of the Commission's 2007 precedential decision in the case of *In*
27 *the Matter of: Chanthou Suon*, File No. DC # 108056, OAH No. N-2007010839, in which the
28 Commission determined that a conviction for violating Penal Code section 243, subdivision (e), is
not a conviction of a crime of moral turpitude. However, the Complainant respectfully disagrees
with that legal determination and requests that the Commission revisit this issue.

1 poses a threat to the public interest of this state, or to the effective regulation and control of
2 controlled gambling. Since 2008, Respondent has suffered two criminal convictions, as follows:

3 A. On or about April 16, 2008, Respondent was convicted of violating Vehicle Code
4 section 23152, subdivision (a), driving under the influence of drugs and/or alcohol, a
5 misdemeanor, with an advisement per Vehicle Code section 23593,⁵ subdivision (a), in the case
6 of *People v. Joshua Allen Hamilton* (Super. Ct. Kern County, 2008, No. BM728826A).

7 B. On or about December 29, 2010, Respondent was convicted of violating Penal Code
8 section 243, subdivision (e)(1), battery upon a cohabitant, a misdemeanor, in the case of *People v.*
9 *Joshua Allen Hamilton* (Super. Ct. Kern County, 2010, No. BM780246A).⁶

10 **THIRD CAUSE FOR DENIAL OF APPLICATION**

11 **(Unqualified for Licensure – Disregard for the Law)**

12 17. Respondent's application for licensure is subject to denial pursuant to Business and
13 Professions Code sections 19857, subdivisions (a) and (b), 19859, subdivision (a), and California
14 Code of Regulations, title 4, section 12218.11, subdivisions (e) and (j), in that Respondent lacks
15 the requisite good character, honesty and integrity and/or poses a threat to the public interest of
16 this state, or to the effective regulation and control of controlled gambling, or creates or enhances
17 the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
18 controlled gambling. Since 2008, Respondent has demonstrated a pattern and practice of flagrant
19 disregard for the requirements of law and legal authority. In addition to the two misdemeanor
20 suffered by Respondent, and as pled above, Respondent has been issued four bench warrants for
21 failure to comply with the terms and conditions of his probation, as follows:

22 ⁵ The advisement is as follows: "You are hereby advised that being under the influence
23 of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is
24 extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both.
If you continue to drive while under the influence of alcohol or drugs, or both, and, as a result of
that driving, someone is killed, you can be charged with murder."

25 ⁶ As noted above in footnote 4 above, Complainant is aware of the Commission's 2007
26 precedential decision in the case of *In the Matter of: Chanthou Suon*. In the event that the
27 Commission does not overturn the legal conclusion in that decision as requested, then, in the
28 alternative, Complainant alleges that the Commission may use its discretion and consider
Respondent's 2010 criminal conviction as a basis for denying Respondent's application. (Bus. &
Prof. Code, § 19859, subd. (d).)

1 A. On or about June 16, 2008, the Superior Court for Kern County issued a bench
2 warrant for Respondent's failure to attend the required victim impact panel.

3 B. On or about October 1, 2008, the Superior Court for Kern County issued a bench
4 warrant for Respondent's failure to again attend the required victim impact panel.

5 C. On or about April 14, 2009, the Superior Court for Kern County issued a bench
6 warrant for Respondent's failure to appear at his probation violation hearing.

7 D. On or about April 5, 2011, the Superior Court for Kern County issued a bench
8 warrant for Respondent's failure to complete the court-ordered community service and for failure
9 to attend required family violence counseling.

10 **PRAYER**

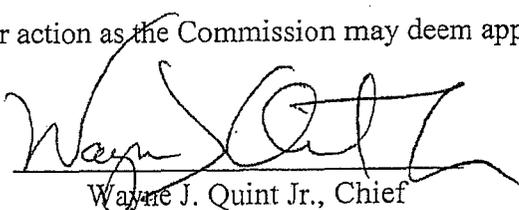
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Commission issue a decision:

13 1. Denying the Application For Third-Party Player Services License for Supervisor,
14 Player or Other Employee, submitted by Joshua Allen Hamilton;

15 2. Awarding Complainant the costs of investigation and costs of bringing this Statement
16 of Issues before the Commission, pursuant to Business and Professions Code section 19930,
17 subdivisions (d) and (f), in a sum according to proof; and

18 3. Taking such other and further action as the Commission may deem appropriate.

19 Dated: January ^{14TH}, 2014

20 
21 Wayne J. Quint Jr., Chief
22 Bureau of Gambling Control
23 Department of Justice
24 State of California
25 Complainant
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