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

12
13 **In the Matter of the Statement of Reasons
for Denial of Application for a Third-Party
14 Proposition Player Services License for**

15 **JOSHUA DANIEL BETANCUR**
16 [REDACTED]

17 **Third-Party Proposition Player Services
18 Registration Number TPPL-014353.**

19 **Respondent.**

Case No.

STATEMENT OF REASONS

BGC Case No. BGC-HQ2017-00009SL

CGCC Case No: CGCC-2017-0622-11F

20
21 Complainant alleges as follows:

22 **PARTIES**

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

26 2. On August 1, 2014, the Bureau received an application from Joshua Daniel Betancur
27 (Betancur or Respondent) for registration as a third-party proposition player for Arise, LLC,
28 (Arise) a third-party provider of proposition player services (TPPPPS). On August 22, 2014, the

1 California Gambling Control Commission (Commission) approved Respondent's application and
2 issued him registration number TPPL-014182, with an expiration date of August 31, 2016. On
3 September 4, 2014, the Bureau was notified by Arise that as of August 27, 2014, Betancur had
4 been terminated from employment with Arise. Arise also returned Respondent's badge.

5 3. On September 18, 2014, the Bureau received a request to transfer Betancur's
6 registration from Arise to Rhino Gaming, Inc. (Rhino), another TPPPPS. The transfer was
7 approved by the Commission on September 30, 2014, and Respondents was issued registration
8 number TPPL-014353, with an expiration date of August 31, 2016.

9 4. On March 3, 2015, the Bureau received an application from Betancur for a Third-
10 Party Proposition Player Services License, as well as a Level 1 Supplemental Information form
11 (collectively herein "Application") in relation to his registration with Rhino.

12 5. On June 24, 2016, the Commission approved a renewal of Respondent's registration
13 through August 31, 2018, stating in part: "a registration shall be cancelled if the Commission
14 determines that the registrant is ineligible. . . . Applicants initially found eligible for registration
15 may be found ineligible for licensing by the Commission pursuant to CCR section 12218.1."

16 6. On or about March 22, 2017, the Bureau issued a letter to Betancur's designated
17 agent notifying him that it would be recommending that Betancur's Application be denied. On or
18 about April 18, 2017, a pre-denial meeting was telephonically held with Betancur and his
19 representative at which Bureau representatives informed them of the basis for the
20 recommendation of denial of the Application. On or about May 9, 2017, the Bureau issued a
21 Third-Party Player Background Investigation Report, Level III, recommending denial of
22 Betancur's Application.

23 7. On June 22, 2017, pursuant to California Code of Regulations, title 4, section 12054,
24 subdivision (a)(2), the Commission referred consideration of Respondent's Application to an
25 evidentiary hearing to be held under the provisions of California Code of Regulations, title 4,
26 section 12060.¹

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

1 8. On or about June 26, 2017, the Commission notified Respondent of the
2 Commission's decision to refer the matter to an evidentiary hearing. Included with that written
3 notice was a Notice of Defense form for Respondent to complete and return.

4 9. On or about July 6, 2017, Respondent submitted the signed Notice of Defense, dated
5 June 28, 2017.

6 **BURDEN OF PROOF**

7 10. Respondent has the burden of proving his qualifications to receive a license.
8 (Bus. & Prof. Code, § 19856, subd. (a).)

9 **FIRST CAUSE FOR DENIAL**

10 **(Lack of Requisite Character and Integrity)**

11 11. Respondent's Application is subject to denial because Respondent lacks the requisite
12 character and integrity for licensure. (Bus. & Prof. Code, §§ 19856, subd. (b), 19857, subds. (a),
13 (b); Cal. Code. Regs., tit. 4, § 12218.11, subd. (e).)

14 12. While he was employed by Arise, Respondent cheated on a test given by his
15 employer and was terminated from his employment on that basis.

16 13. On his Application, under penalty of perjury, Respondent lied about the reason his
17 employment with Arise was terminated.

18 14. In response to a Bureau inquiry as to why he failed to disclose the true basis for his
19 termination from Arise, LLC on his application, Respondent indicated that he did so because he
20 thought that Arise had recorded that he left his employment voluntarily.

21 **SECOND CAUSE FOR DENIAL OF APPLICATION**

22 **(Failure to Disclose, Failure to Provide Requested Information, or**
23 **Provided Misleading Information to the Bureau)**

24 15. The allegations of paragraphs 11 through 14, above, are incorporated here by this
25 reference.

26 16. Respondent's Application is subject to denial in that Respondent failed to disclose
27 and/or supplied misleading information material to his qualification for licensure. (Bus. & Prof.
28 Code, §§ 19856, subd. (b), 19857, 19859, subd. (b), 19866; Cal. Code. Regs., tit. 4, § 12218.11,

1 subs. (e) & (f.) Respondent failed to truthfully disclose on his Application the circumstances
2 regarding his termination from employment with Arise.

3 **PRAYER**

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

- 6 1. Denying Respondent's Application for Third-Party Proposition Player License;
7 2. Cancelling Respondent's registration number TPPL-014353; and
8 3. Taking such other and further action as the Commission may deem appropriate.

9
10 Dated: September ^{29TH}, 2017



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

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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
7 of 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 are conducted in a manner that is inimical to the public
14 health, safety, or welfare.

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

20 (b) For the purposes of this section, “unqualified person” means a
21 person who is found to be unqualified pursuant to the criteria set
22 forth in Section 19857, and “disqualified person” means a person
23 who is found to be disqualified pursuant to the criteria set forth in
24 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
28 of this chapter,^[2] 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

² Hereinafter, “chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

1 individual owner endorsed on the license certificate of the gambling
2 enterprise whether or not the commission takes action against the
license of the gambling enterprise.

3 * * *

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

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

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

10 * * *

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

12 5. Business and Professions Code, section 19870 provides:

13 (a) The commission, after considering the recommendation of the
14 chief³ and any other testimony and written comments as may be
presented at the meeting, or as may have been submitted in writing
15 to the commission prior to the meeting, may either deny the
application or grant a license to an applicant who it determines to
be qualified to hold the license.

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

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

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

22 (e) A decision of the commission denying a license or approval, or
23 imposing any condition or restriction on the grant of a license or
approval may be reviewed by petition pursuant to Section 1085 of
24 the Code of Civil Procedure. Section 1094.5 of the Code of Civil
Procedure shall not apply to any judicial proceeding described in
25 the foregoing sentence, and the court may grant the petition only if
the court finds that the action of the commission was arbitrary and
26 capricious, or that the action exceeded the commission's
jurisdiction.

27 _____
28 ³ “Chief” refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 6. Business and Professions Code, section 19871 provides:

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

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

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

8 (A) To call and examine witnesses.

9 (B) To introduce exhibits relevant to the issues of
10 the case.

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

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

16 (E) To offer rebuttal evidence.

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

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

28 (b) Nothing in this section confers upon an applicant a right to
discovery of the department's⁴ 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. 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,

⁴ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
(h).)

1 unless the Executive Director or the Commission determines the
2 hearing should be conducted as an APA hearing under Section
3 12058 . . .

- 4 8. California Code of Regulations, title 4, section 12060, subdivision (b) provides:

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

10 **SPECIFIC STATUTORY PROVISIONS**

- 11 9. Business and Professions Code section 19856 provides, in part:

12 (a) The burden of proving his or her qualifications to receive any
13 license is on the applicant.

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

- 18 10. Business and Professions Code, section 19857 provides:

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

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

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

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

11. 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.

1 (b) Failure of the applicant to provide information, documentation,
2 and assurances required by this chapter or requested by the chief, or
3 failure of the applicant to reveal any fact material to qualification,
4 or the supplying of information that is untrue or misleading as to a
5 material fact pertaining to the qualification criteria.

6 12. Business and Professions Code section 19866 provides:

7 An applicant for licensing or for any approval or consent
8 required by this chapter, shall make full and true disclosure of all
9 information to the department and the commission as necessary to
10 carry out the policies of this state relating to licensing, registration,
11 and control of gambling.

12 13. California Code of Regulations, title 4, section 12205 provides:

13 (a) Any regular registration issued in accordance with this
14 chapter⁵ shall be subject to cancellation pursuant to this section.
15 A registration shall be cancelled if the Commission determines after
16 a noticed hearing that the registrant is ineligible for registration, has
17 failed in the application for registration to reveal any fact material
18 to the holder's qualification for registration, or has supplied
19 information in the registration application that is untrue or
20 misleading as to a material fact pertaining to the criteria for
21 issuance of registration.

22 (b) If the Commission finds that any of the circumstances set forth
23 in subsection (a) apply, then the Executive Director shall
24 immediately do all of the following:

25 (1) Provide written notice to the registrant and the Bureau of
26 the cancellation of the registration and the grounds thereof, and
27 provide written notice of the cancellation to the owner, if the
28 registrant is a supervisor, player, or other employee and to any
gambling establishment in which the registrant provides proposition
player services.

(2) Notify the registrant, if an individual, that he or she is
required to surrender the registrant's badge to the Commission not
more than ten days following the date that the notice of the
cancellation was mailed or such greater time as is authorized by the
Executive Director.

THIRD-PARTY PROPOSITION PLAYER PROVISIONS

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

The commission shall establish reasonable criteria for, and
require the licensure and registration of, any person or entity that
provides proposition player services to gambling establishments

⁵ "Chapter" refers to California Code of Regulations, title 4, division 18, chapter 2.1, section 12200 et seq.

1 pursuant to this section, including owners, supervisors, and players
2 . . . The commission may impose licensing requirements,
3 disclosures, approvals, conditions, or limitations as it deems
4 necessary to protect the integrity of controlled gambling in this state
5 . . .

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

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

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

13 (b) . . .

14 * * *

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

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

21 17. California Code of Regulations, title 4, section 12200.18, subdivisions (a), (b), and
22 (f), provide:

23 The Commission may revoke a registration or license, upon any
24 of the following grounds, after a hearing conducted pursuant to the
25 same procedures applicable to the revocation of a gambling
26 establishment license:

27 (a) The registrant or licensee committed, attempted to commit, or
28 conspired to commit any acts prohibited by the Act⁶ or this
chapter.

(b) Any act or omission by the registrant that would disqualify the
registrant from obtaining registration under this chapter. Any act or
omission by the licensee that would disqualify the licensee from
obtaining licensing under this chapter.

(f) The registrant or licensee concealed or refused to disclose any
material fact in any inquiry by the Bureau or the Commission.

⁶ “Act” refers to the “Gambling Control Act.” (Bus. & Prof. Code, § 19800 et seq.)

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

A requester shall be ineligible for licensing for any of the following causes:

* * *

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

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

* * *

(i) The requester has failed to comply with one or more of the requirements set forth in paragraphs (8), (9), (15), (16), (17), (18) or (21) of subsection (b) of Section 12200.7 or in paragraph (2) of subsection (c) of Section 12200.7.

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