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

13
14 **In the Matter of the Statement of Reasons for**
15 **Denial of Application for a Third-Party**
16 **Proposition Player Services License for:**
17 **KYLE H. BAISA**
18 [REDACTED]
19 **Registration number TPPL-017913**
20
21 **Respondent.**

BGC Case No. BGC-HQ2017-0024SL
CGCC Case No. CGCC-2017-1116-13B
STATEMENT OF REASONS

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Stephanie Shimazu (Complainant) brings this Statement of Reasons solely in her
4 official capacity as the Director of the California Department of Justice, Bureau of Gambling
5 Control (Bureau).

6 2. On or about July 22, 2016, the California Gambling Control Commission
7 (Commission) issued third-party proposition player services registration, number TPPL-017913,
8 to Kyle H. Baisa (Respondent) to allow for his employment as a third-party proposition player for
9 PT Gaming, LLC, a licensed third-party proposition player services provider, license number
10 TPPP-000004.

11 3. On or about May 11, 2017, Respondent submitted an initial Application for Third-
12 Party Proposition Player Services License for Supervisor, Player or Other Employee, together
13 with a Level I Supplemental Information form (collectively, Application), to the Bureau.¹

14 4. On or about September 28, 2017, the Bureau submitted a Third-Party Player
15 Background Investigation Report to the Commission recommending that Respondent's
16 Application be denied.

17 5. At its November 16, 2017 meeting, the Commission referred consideration of
18 Respondent's Application to an evidentiary hearing to be conducted pursuant to Business and
19 Professions Code sections 19870 and 19871, and California Code of Regulations, title 4, section
20 12056, subdivision (a).²

21 6. On or about November 20, 2017, the Commission notified Respondent of the
22 Commission's decision to refer the matter to an evidentiary hearing. Included with that written
23 notice was a Notice of Defense form for Respondent to complete and return.

24 ¹ Respondent was required to convert his registration to a license and submit an
25 application for such licensure pursuant to California Code of Regulations, title 4, sections
26 12205.1 and 12218, because PT Gaming, LLC (formerly known as Gaming Management, LLC),
was summoned on or about January 8, 2007, to submit an application to convert its registration to
a license.

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

1 (Bus. & Prof. Code, §§ 19856, subd. (b), 19857, subds. (a) & (b); Cal. Code. Regs., tit. 4, §§
2 12200.18, subds. (a) & (b), 12218.11, subds. (e) [mandatory denial] & (j) [mandatory denial].)

3 **SECOND CAUSE FOR DENIAL**

4 **(Failure and/or Refusal to Disclose Required Information)**

5 10. Respondent's Application is subject to denial and his registration subject to
6 revocation or cancellation because Respondent, under penalty of perjury, failed and/or refused to
7 disclose on his Application four of the convictions alleged in paragraph nine, above. Specifically,
8 Respondent failed to disclose the following convictions:

9 a. On or about June 21, 2011, Respondent was convicted, upon a plea of no
10 contest, of violating Hawaii Revised Statute 291E-61, subdivision (a), operating a vehicle under
11 the influence of an intoxicant, a misdemeanor, and Hawaii Revised Statute 286-102, driving
12 without a license, a misdemeanor, in the case of *Hawaii v. Kyle H. Baisa* (Dist. Ct., 2d Cir.,
13 Wailuku Div., Hawaii, 2011, No. 2DTA-11-00423).

14 b. On or about November 30, 2007, Respondent was convicted, upon a plea of
15 guilty, of violating Hawaii Revised Statute 291E-61, subdivision (a), operating a vehicle under
16 the influence of an intoxicant, a misdemeanor, and Hawaii Revised Statute 291C-105, subdivision
17 (a)(1), excessive speeding, a misdemeanor, in the case of *Hawaii v. Kyle H. Baisa* (Dist. Ct., 2d
18 Cir., Wailuku Div., Hawaii, 2007, No. 2DTA-07-02126).

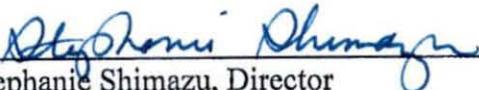
19 (Bus. & Prof. Code, §§ 19856, subd. (b), 19857, subds. (a) & (b), 19859, subds. (a) [mandatory
20 denial] & (b) [mandatory denial], 19866; Cal. Code. Regs., tit. 4, §§ 12200.18, subds. (a), (b), &
21 (f), 12218.11, subds. (e) [mandatory denial], (f) [mandatory denial], & (j) [mandatory denial].)

PRAYER

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

1. Denying Respondent's Application for Third-Party Proposition Player Services License;
2. Cancelling or revoking Respondent's registration, number TPPL-017913; and
3. Taking such other and further action as the Commission may deem appropriate.

Dated: April 25, 2018


Stephanie Shimazu, Director
Bureau of Gambling Control
California Department of Justice

1 disqualified, or unsuitable persons are associated with controlled gambling activities.

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

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

5 * * *

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

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

9 (a) The commission, after considering the recommendation of the chief⁴ and any
10 other testimony and written comments as may be presented at the meeting, or as may
11 have been submitted in writing 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.

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

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

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

17 (e) A decision of the commission denying a license or approval, or imposing any
18 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
19 the Code of Civil Procedure shall not apply to any judicial proceeding described in
20 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 be conducted in
23 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 case.

28 ⁴ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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

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

5 (E) To offer rebuttal evidence.

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

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

14 (b) Nothing in this section confers upon an applicant a right to discovery of the
15 department's⁵ investigative reports or to require disclosure of any document or
16 information the disclosure of which is otherwise prohibited by any other provision of
17 this chapter.

- 18 7. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
19 part:

20 If the Commission elects to hold an evidentiary hearing, the hearing will be
21 conducted as a GCA hearing under Section 12060, unless the Executive Director or
22 the Commission determines the hearing should be conducted as an APA hearing
23 under Section 12058 . . .

- 24 8. California Code of Regulations, title 4, section 12060 provides, in part:

25 (a) If the Executive Director determines it is appropriate, he or she may set an
26 application for consideration at a GCA hearing in advance of a meeting pursuant to
27 Section 12054. The Executive Director shall give notice to the applicant, pursuant to
28 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

29 ⁵ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
30 (h).)

1 Section 12052, to the Office of the Attorney General, and to the Bureau no later than
2 60 calendar days in advance of the GCA hearing.

3 **SPECIFIC STATUTORY PROVISIONS**

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

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

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

9 10. Business and Professions Code, section 19857 provides:

10 No gambling license shall be issued unless, based on all of the information and
11 documents submitted, the commission is satisfied that 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, reputation, habits, and
14 associations do not pose a threat to the public interest of this state, or to the effective
15 regulation and control of controlled gambling, or create or enhance the dangers of
16 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
17 incidental thereto.

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

20 11. Business and Professions Code section 19859 provides, in part:

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

23 (a) Failure of the applicant to clearly establish eligibility and qualification in
24 accordance with this chapter.

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

12. 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.

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

(a) Any regular registration issued in accordance with this chapter⁶ shall be subject to cancellation pursuant to this section. A registration shall be cancelled if the Commission determines after a noticed hearing that the registrant is ineligible for registration, has failed in the application for registration to reveal any fact material to the holder's qualification for registration, or has supplied information in the registration application that is untrue or misleading as to a material fact pertaining to the criteria for issuance of registration.

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

(1) Provide written notice to the registrant and the Bureau of the cancellation of the registration and the grounds thereof, and provide written notice of the cancellation to the owner, if the 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 pursuant to this section, including owners, supervisors, and players . . . The commission may impose licensing requirements, disclosures, approvals, conditions, or limitations as it deems necessary to protect the integrity of controlled gambling in this state . . .

15. 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.

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

(b) . . .

⁶ "Chapter" refers to California Code of Regulations, title 4, division 18, chapter 2.1, section 12200 et seq.

1 * * *

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

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

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

9 The Commission may revoke a registration or license, upon any of the
10 following grounds, after a hearing conducted pursuant to the same procedures
11 applicable to the revocation of a gambling establishment license:

12 (a) The registrant or licensee committed, attempted to commit, or conspired to
13 commit any acts prohibited by the Act⁷ or this chapter.

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

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

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

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

21 * * *

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

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

27 * * *

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

⁷ "Act" refers to the "Gambling Control Act." (Bus. & Prof. Code, § 19800 et seq.)