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**BEFORE THE**  
**CALIFORNIA GAMBLING CONTROL COMMISSION**  
**STATE OF CALIFORNIA**

In the Matter of the Application for a Third-  
Party Proposition Players Services License for  
a Player Regarding:

CGCC Case No. CGCC-2017-1218-17E  
BGC Case No. BGC-HQ2018-00038SL

## **STATEMENT OF PARTICULARS**

Hearing Date: March 27, 2019  
Hearing Time: 10:00 a.m.  
Hearing Place: 2399 Gateway Oaks, Suite 100  
Sacramento, CA 95833

## PARTIES

1. Stephanie Shimazu submits this Statement of Particulars solely in her official capacity as the Director of the California Department of Justice, Bureau of Gambling Control (Bureau).
  2. On May 16, 2017, the Bureau received an Application for Third-Party Proposition Player Services License for Supervisor, Player or Other Employee, and a Level I Supplemental Information, both dated April 28, 2017, (collectively, Application) from Ian Angus Riley

1 (Applicant), to allow for his employment as a third-party proposition player (prop-player) for  
2 Rhino Gaming, Inc. (Rhino), a registered third-party proposition player services provider,  
3 registration number TPPP-000111.<sup>1</sup>

4       3. Applicant was employed as a prop-player by Rhino from April 2017 to April 2018.  
5 On or about April 21, 2017, the California Gambling Control Commission (Commission) issued  
6 Applicant a registration, number TPPL-019568, as a prop-player for this employment. The  
7 Applicant's registration became inactive on April 15, 2018.

8       4. Prior to his employment with Rhino, from May 2015 to March 2017, Applicant was  
9 employed as prop-player for Arise, LLC (Arise), a licensed third-party proposition player services  
10 provider, license number TPPP-000067.<sup>2</sup>

11      5. On or about October 5, 2017, the Bureau submitted a Third-Party Player Background  
12 Investigation Report to the Commission recommending approval of Applicant's Application.

13      6. On or about December 18, 2017, the Commission referred the determination of  
14 Applicant's suitability to be issued a prop-player's license to an evidentiary hearing, which is to  
15 be held pursuant to California Code of Regulations, title 4, section 12060.<sup>3</sup>

16      7. On or about December 20, 2017, the Commission sent Applicant a letter advising him  
17 of the referral of the determination of his suitability to be issued a prop-player license to an  
18 evidentiary hearing, as well as his right to submit a timely Notice of Defense and the  
19 consequences if he did not. Enclosed with this letter was a Notice of Defense form for Applicant  
20 to complete and return to the Commission and the Bureau within 15 calendar days.

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<sup>1</sup> Applicant is required to convert his registration to a license and submit an application  
23 for such licensure pursuant to California Code of Regulations, title 4, sections 12205.1 and  
24 12218, because Rhino was summoned, on January 28, 2015, to submit an application to convert  
its registration to a license.

25      <sup>2</sup> On April 23, 2015, the Commission issued Applicant a registration, number TPPL-  
26 015196, as a prop-player for this employment. On June 23, 2016, the Commission converted his  
registration to a license, number TPPL-015196, for this employment. This license ended on  
March 27, 2017, when Applicant left his employment with Arise.

27      <sup>3</sup> The statutes and regulations applicable to this Statement of Particulars are quoted in  
28 pertinent part in Appendix A.

8. On or about January 23, 2018, the Commission sent Applicant a Notice of Hearing Without Applicant Participation. Applicant had failed to timely submit a Notice of Defense or to submit any type of request for a hearing.

9. On April 26, 2018, the Commission issued a Default Decision and Order denying Applicant's Application and cancelling his registration.

10. On or about May 24, 2018, Applicant submitted a Request for Reconsideration of the Default Decision and Order issued by the Commission.

11. On June 21, 2018, the Commission granted Applicant's Request for Reconsideration: The Commission then re-opened the administrative record and again referred consideration of Applicant's Application to an evidentiary hearing, which is to be held pursuant to California Code of Regulations, title 4, section 12060.

12. On or about July 16, 2018, Applicant submitted a Notice of Defense, which is dated July 2, 2018.

13. On or about September 27, 2018, the Commission issued a Notice of Hearing.

## **BURDEN OF PROOF**

14. Applicant has the burden of proving his qualifications to receive a license.  
(Bus. & Prof. Code, § 19856, subd. (a).)

## **LICENSURE CONSIDERATIONS**

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

15. Applicant is no longer employed by Rhino or by anyone else in any capacity that would require he be issued a proposition player license or registration, or any other type of Commission issued license, registration, permit or finding of suitability. Additionally, proposition player licenses are employment specific and not transferable to employment with a different third-party proposition player services provider. (Cal. Code. Regs., tit. 4, § 12200.3, subd. (f).)

16. Applicant has been employed since April 21, 2018, as a Table Games Dealer at Table Mountain Casino, which is owned and operated by the Table Mountain Rancheria of California (Tribe), pursuant to a tribal-state compact. On or about March 20, 2018, the Tribe's Tribal Gaming Commission (Tribal Commission) issued Applicant a license to allow for this

1 employment. However, after having learned from Applicant of the Commission's Default  
2 Decision and Order, on or about May 15, 2018, the Tribal Commission advised Applicant that his  
3 continued licensure by the Tribe was contingent upon his requesting reconsideration of the  
4 Commission's Default Decision and Order within 30 days. Applicant complied with this  
5 condition when he submitted his above noted Request for Reconsideration.

6 17. There were no reported problems with Applicant's employment at Rhino. It appears  
7 that he left that employment on good terms.

8 18. On or about March 2017, Applicant was terminated for cause from his employment at  
9 Arise. In his Application he stated that the reason he left that employment was because he was  
10 "let go." When asked by the Bureau on May 31, 2017, to explain the circumstances regarding his  
11 separation from Arise, Respondent responded with a written statement saying that:

12 "In March of 2017 I was let go from Arise LLC. I received a phone call,  
13 following being sent home early the previous night, and was released from  
employment with Arise. Officially I do not know why I was let go. No reason  
14 was ever provided from the Company."

15 In his subsequent May 2018 Request for Reconsideration, Applicant provided the  
16 following explanation:

17 "The reason I was dismissed from my job with Arise was a supervisor who  
18 felt I was 'in no condition to work' that day. I was tired but still ready to work.  
The previous day, I worked the 11:00 p.m. – 7:00 a.m. shift. Then, I returned to  
19 work a 7:00 p.m. – 1:00 a.m. shift. I didn't have a regular schedule, my hours  
were never consistent and I had been scheduled for 6 days a week. Unfortunately,  
20 I shared my frustration on social media and was fired for doing so."

21 On September 13, 2017, Fred Austin, Chief Operating Office for Arise, emailed the  
22 Bureau and advised that:

23 "I called Mr. Riley on the telephone and told him he was terminated from  
Arise, LLC effective March 27, 2017. I don't remember the exact words I used  
24 when I told him he was terminated. Basically he was terminated because when he  
reported to work on March 26, 2017 he was in no condition to work and shortly  
25 after he left work he posted a very disrespectful social media post."

26  
27 On multiple occasions the Bureau requested further clarification from Arise, which Arise  
28 was unable to provide.

19. Applicant was employed as an office assistant at D & K Towing from December 2013 to February 2014, when he was terminated from that position. Applicant disclosed this termination on his Application. When asked by the Bureau on May 31, 2017, to explain the circumstances regarding his separation from D & K Towing, Respondent responded with a written statement saying that:

"In February of 2014 I was terminated from my employment with D & K Towing. They had decided that my employment with the company was not a good fit for their needs and informed me of my inadequacy of the task the job requires."

On September 29, 2017, Jessica of D & K Towing provided the following statement to the Bureau:

"Hello. I let him go because he did not meet Company standards. He was not meeting our expectations.. Very nice person but was not able to perform at our standards. I hope this completes your request. If you have any further questions, please let me know."

20. Applicant has been cooperative throughout the application process.

21. The Bureau is unaware of any other facts or circumstances that would impact his suitability for licensure or indicate that Applicant currently poses a threat to either the safety of the gambling public or the integrity of the controlled gambling industry.

## **CONCLUSION**

WHEREFORE, Director Stephanie Shimazu requests that following the hearing to be held on the matters herein alleged the Commission issue a Decision and Order taking the following actions:

1. Deem that Applicant's Application has been abandoned as a result of his no longer being employed as a prop-player for Rhino, or for any other third-party proposition player services provider;

2. Order that the abandonment is without fault and that Applicant is not constrained or impaired from applying for a state gambling license, registration, work permit or finding of suitability should the need arise in the future;

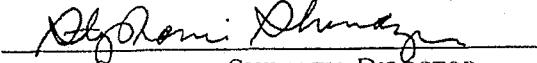
1           3. Inactivate Applicant's registration, number TPPL-019568, as a result of his no longer  
2 being employed as a proposition player for Rhine; and,

3           4. Taking such further action as the Commission deems appropriate.

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6           Dated: November 1, 2018

7             
8           STEPHANIE SHIMAZU, DIRECTOR  
9           Bureau of Gambling Control  
10           California Department of Justice

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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 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, or  
13 by persons are conducted in a manner that is inimical to the  
14 public health, safety, or welfare.

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

20 (b) For the purposes of this section, "unqualified person"  
21 means a person who is found to be unqualified pursuant to the criteria  
22 set 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 of  
28 this chapter,<sup>[4]</sup> including, without limitation, the power to do all of the  
following:

29 \* \* \*

30 (b) For any cause deemed reasonable by the commission, deny  
31 any application for a license, permit, or approval provided for in this  
32 chapter or regulations adopted pursuant to this chapter, limit,  
33 condition, or restrict any license, permit, or approval, or impose any  
34 fine upon any person licensed or approved. The commission may  
35 condition, restrict, discipline, or take action against the license of an  
36 individual owner endorsed on the license certificate of the gambling

27 <sup>4</sup> 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 enterprise whether or not the commission takes action against the  
2 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  
6 associated with controlled gambling activities.

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

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

12 \* \* \*

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

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

16 (a) The commission, after considering the recommendation of  
17 the chief<sup>[5]</sup> and any other testimony and written comments as may be  
18 presented at the meeting, or as may have been submitted in writing to  
19 the commission prior to the meeting, may either deny the application  
20 or grant a license to an applicant who it determines to be qualified to  
21 hold the license.

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

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

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

31 (e) A decision of the commission denying a license or  
32 approval, or imposing any condition or restriction on the grant of a  
33 license or approval may be reviewed by petition pursuant to Section  
34 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of  
35 Civil Procedure shall not apply to any judicial proceeding described in  
36 the foregoing sentence, and the court may grant the petition only if the  
37 court finds that the action of the commission was arbitrary and  
38 capricious, or that the action exceeded the commission's jurisdiction.

39 \_\_\_\_\_  
40 <sup>5</sup> "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  
3                 be conducted in accordance with regulations of the commission and as  
4                 follows:

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

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

7                             (A) To call and examine witnesses.

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

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

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

15                             (E) To offer rebuttal evidence.

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

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

27                             (b) Nothing in this section confers upon an applicant a right to  
28                         discovery of the department's<sup>[6]</sup> investigative reports or to require  
29                         disclosure of any document or information the disclosure of which is  
30                         otherwise prohibited by any other provision of this chapter.

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

32                 The commission shall establish reasonable criteria for, and  
33                 require the licensure and registration of, any person or entity that  
34                 provides proposition player services to gambling establishments  
35                 pursuant to this section, including owners, supervisors, and

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37                 <sup>6</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.  
38                 (h).)

1 players . . . . The commission may impose licensing requirements,  
2 disclosures, approvals, conditions, or limitations as it deems necessary  
3 to protect the integrity of controlled gambling in this state . . . .

- 4 8. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in  
5 part:

6 If the Commission elects to hold an evidentiary hearing, the  
7 hearing will be conducted as a GCA hearing under Section 12060,  
8 unless the Executive Director or the Commission determines the  
9 hearing should be conducted as an APA hearing under Section  
10 12058 . . . .

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

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

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

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

- 22 11. California Code of Regulations, title 4, section 12205 provides:

23 (a) Any regular registration issued in accordance with this  
24 chapter<sup>[7]</sup> shall be subject to cancellation pursuant to this section. A  
25 registration shall be cancelled if the Commission determines after a  
26 noticed hearing that the registrant is ineligible for registration, has  
27 failed in the application for registration to reveal any fact material to  
28 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

27 7 "Chapter" refers to California Code of Regulations, title 4, division 18, chapter 2.1,  
28 section 12200 et seq.

1 and to any gambling establishment in which the registrant  
2 provides proposition player services.

3 (2) Notify the registrant, if an individual, that he or she  
4 is required to surrender the registrant's badge to the Commission  
5 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.

## 6 SPECIFIC STATUTORY PROVISIONS

7 12. Business and Professions Code section 19856 provides, in part:

8 (a) Any person who the commission determines is qualified to  
9 receive a state license, having due consideration for the proper  
protection of the health, safety, and general welfare of the residents of  
10 the State of California and the declared policy of this state, may be  
issued a license. The burden of proving his or her qualifications to  
receive any license is on the applicant.

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

14 (c) In reviewing an application for any license, the commission  
15 shall consider whether issuance of the license is inimical to public  
health, safety, or welfare, and whether issuance of the license will  
16 undermine public trust that the gambling operations with respect to  
which the license would be issued are free from criminal and dishonest  
elements and would be conducted honestly.

17 13. Business and Professions Code, section 19857 provides:

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

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

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

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

1           14. Business and Professions Code section 19859 provides, in part:

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

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

6                 (b) Failure of the applicant to provide information,  
7                 documentation, and assurances required by this chapter or  
8                 requested by the chief, or failure of the applicant to reveal any fact  
9                 material to qualification, or the supplying of information that is  
10                untrue or misleading as to a material fact pertaining to the  
11                qualification criteria.

12           15. Business and Professions Code section 19866 provides:

13                 An applicant for licensing or for any approval or consent  
14                 required by this chapter, shall make full and true disclosure of all  
15                 information to the department and the commission as necessary to  
16                 carry out the policies of this state relating to licensing, registration,  
17                 and control of gambling.

18           16. California Code of Regulations, title 4, section 12200.3, provides, in part:

19                 (f) An individual registered or licensed as a player with a  
20                 particular primary owner shall apply for and obtain a new badge  
21                 pursuant to Section 1200.6 before beginning to work for an additional  
22                 or different primary owner.

23           17. California Code of Regulations, title 4, section 12017, provides, in part:

24                 (c) Where the Bureau has issued its Bureau report, the  
25                 Commission may deem an application abandoned at its discretion,  
26                 pursuant to Section 12054 after taking into consideration those criteria  
27                 under subparagraphs (A) through (C), inclusive of paragraph (1) or  
28                 subdivision (b).

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

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

32                 \* \* \*

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