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10  
11 **BEFORE THE**  
12  
13 **CALIFORNIA GAMBLING CONTROL COMMISSION**  
14  
15 **STATE OF CALIFORNIA**

15 In the Matter of the Statement of Reasons for  
16 Denial of Application for a Third-Party  
17 Proposition Player Services License for:

**BGC Case No. BGC-HQ2020-00003SL**  
**CGCC Case No. CGCC-2019-1219-12A**

18 **RODERICK LEE HEBERT**

**STATEMENT OF REASONS**

19 [REDACTED]  
20 [REDACTED]  
21 Registration Numbers TPPL-021221 and TPPL-  
22 025469,

23 **Respondent.**

1 Complainant alleges as follows:

2 **PARTIES**

3 1. Stephanie K. Shimazu (Complainant) brings this Statement of Reasons for Denial of  
4 Application for a Third-Party Proposition Player Services License solely in her official capacity  
5 as the Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

6 2. On or about April 12, 2018, the California Gambling Control Commission  
7 (Commission) issued third-party proposition player services registration number TPPL-021221 to  
8 Roderick Lee Herbert (Respondent) to allow for his employment as a third-party proposition  
9 player for Acme Player Services, LLC, a registered third-party proposition player services  
10 provider, registration number TPPP-000089.<sup>1</sup>

11 3. On or about May 8, 2018, 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.<sup>2</sup>

14 4. On or about October 1, 2019, the Bureau submitted a Third-Party Player Initial  
15 Background Investigation Report to the Commission recommending that Respondent's  
16 Application be denied.

17 5. At its December 19, 2019 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).<sup>3</sup>

21 <sup>1</sup> On or about February 19, 2020, Respondent notified the Bureau that he would leave his  
22 employment at Acme Player Services, LLC on March 15, 2020, and he requested a transfer of his  
23 registration to F2 TPS, LLC, where he indicated that he would begin working on March 15, 2020.  
The Bureau approved the registration transfer request on May 21, 2020, with a new registration  
number TPPL-025469.

24 <sup>2</sup> Respondent was required to convert his registration to a license and submit an  
25 application for licensure pursuant to California Code of Regulations, title 4, sections 12205.1 and  
26 12218, because Acme Player Services, LLC, was summoned on November 12 2010, to submit an  
application to convert its registration to a license. Respondent's Application was signed with a  
date of April 16, 2018.

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

1           6.     On or about December 23, 2019, 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           7.     On or about March 3, 2020, the Commission received Respondent’s completed  
5 Notice of Defense form.

6   **BURDEN OF PROOF**

7           8.     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                                   **(Failure to Accurately and Honestly**  
11                                   **Disclose Required Material Information)**

12           9.     Respondent’s Application is subject to denial and his registration subject to  
13 revocation or cancellation because Respondent, under penalty of perjury, failed to disclose on his  
14 Application that, in 2014, Respondent was terminated from his position as a third-party  
15 proposition player at Knighted Ventures, LLC. Respondent indicated on his Application that he  
16 left that position for a “better opportunity,” when in fact he had been terminated. By not  
17 disclosing his termination from his position as a third-party proposition player at Knighted  
18 Ventures, LLC, Respondent failed to disclose required information that is material to the  
19 Application.

20 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subds. (a) & (b) [mandatory denial], 19866; Cal.  
21 Code. Regs., tit. 4, §§ 12200.18, subds. (a) & (b), 12205, 12218.11, subds. (e) [mandatory denial]  
22 & (j) [mandatory denial].)

23   **SECOND CAUSE FOR DENIAL**

24   **(Unsuitable for Licensure)**

25           10.    Respondent’s Application is subject to denial and his registration subject to  
26 revocation or cancellation on the ground that Respondent is unsuitable for licensure in that:

27                 a.     Respondent failed to disclose required material information as alleged in  
28 paragraph 9, above, which is incorporated herein by this reference.



1                   **APPENDIX A – STATUTORY AND REGULATORY PROVISIONS**

2   **JURISDICTION**

- 3           1.    Business and Professions Code section 19811, subdivision (b), provides:

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

- 7           2.    Business and Professions Code, section 19823 provides:

8   (a) The responsibilities of the commission include, without limitation, all of the  
9   following:

10   (1) Assuring that licenses, approvals, and permits are not issued to, or held  
11   by, unqualified or disqualified persons, or by persons are conducted in a manner that  
12   is inimical to the public health, safety, or welfare.

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

17   (b) For the purposes of this section, “unqualified person” means a person who is  
18   found to be unqualified pursuant to the criteria set forth in Section 19857, and  
19   “disqualified person” means a person who is found to be disqualified pursuant to the  
20   criteria set forth in Section 19859.

- 21           3.    Business and Professions Code, section 19824 provides, in part:

22   The commission shall have all powers necessary and proper to enable it fully and  
23   effectually to carry out the policies and purposes of this chapter,<sup>[4]</sup> including, without  
24   limitation, the power to do all of the following:

25   \* \* \*

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

33   \* \* \*

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

36                   \_\_\_\_\_

37                   <sup>4</sup> “Chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing  
38                   with section 19800), also known as the Gambling Control Act.

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

2 The commission, by regulation or order, may require that the following persons  
3 register with the commission, apply for a finding of suitability as defined in  
4 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 chief<sup>5</sup> 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  
12 deny the application or grant a license to an applicant who it determines to be  
13 qualified to hold the license.

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

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

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

21 (e) A decision of the commission denying a license or approval, or imposing any  
22 condition or restriction on the grant of a license or approval may be reviewed by  
23 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of  
24 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  
26 the action of the commission was arbitrary and capricious, or that the action exceeded  
27 the commission's jurisdiction.

28 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) Oral evidence shall be taken only upon oath or affirmation.

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

(A) To call and examine witnesses.

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

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

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

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<sup>5</sup> "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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(E) To offer rebuttal evidence.

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

(4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible 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.

(b) Nothing in this section confers upon an applicant a right to discovery of the department's<sup>6</sup> 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, unless the Executive Director or the Commission determines the hearing should be conducted as an APA hearing under Section 12058 . . .

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

(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.

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

1 **SPECIFIC STATUTORY PROVISIONS**

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

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

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

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

9 No gambling license shall be issued unless, based on all of the information and  
10 documents submitted, the commission is satisfied that the applicant is all of the  
11 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  
17 controlled gambling, or in the carrying on of the business and financial arrangements  
18 incidental thereto.

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

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

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

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

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

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

(a) Any regular registration issued in accordance with this chapter<sup>7</sup> shall be

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<sup>7</sup> "Chapter" refers to California Code of Regulations, title 4, division 18, chapter 2.1, section 12200 et seq.



1 subject to cancellation pursuant to this section. A registration shall be cancelled if the  
2 Commission determines after a noticed hearing that the registrant is ineligible for  
3 registration, has failed in the application for registration to reveal any fact material to  
4 the holder's qualification for registration, or has supplied information in the  
5 registration application that is untrue or misleading as to a material fact pertaining to  
6 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) . . .

\* \* \*

(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.

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

The Commission may revoke a registration or license, upon any of the following  
grounds, after a hearing conducted pursuant to the same procedures applicable to the

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revocation of a gambling establishment license:

(a) The registrant or licensee committed, attempted to commit, or conspired to commit any acts prohibited by the Act<sup>8</sup> 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.

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).

\* \* \*

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

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<sup>8</sup> “Act” refers to the “Gambling Control Act.” (Bus. & Prof. Code, § 19800 et seq.)