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

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

16 **RYAN LaFOUNTAIN**

17 **Respondent.**

CGCC Case No. CGCC-2021-0909-8A

BGC Case No. BGC-HQ2021-00032SL

STATEMENT OF REASONS

19
20 Complainant alleges as follows:

21 **PARTIES**

22 1. Yolanda Morrow (Complainant) brings this Statement of Reasons solely in her
23 official capacity as Acting Director of the California Department of Justice, Bureau of Gambling
24 Control (Bureau).

25 2. Ryan Dale LaFountain (Respondent) was formerly employed by PT Gaming, LLC
26 (PT Gaming) as a Third-Party Proposition Player.

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THE APPLICATION AND THIS PROCEEDING

3. On or about November 18, 2020, the California Gambling Control Commission (Commission) issued to Respondent Third Party Player Registration No. TPPL-026465.

4. In connection with Respondent’s PT Gaming employment, on or about December 17, 2020, the Bureau received an Application for Initial Third-Party Proposition Player Services License from Respondent and Level I Supplemental Information forms (collectively, Application).

5. On or about July 19, 2021, the Bureau issued its Third-Party Player Initial Background Investigation Report, Level III, recommending that the Commission deny Respondent’s Application.

6. On September 9, 2021, the Commission referred consideration of Respondent’s Application to an evidentiary hearing, which is to be held pursuant to California Code of Regulations, title 4, section 12060.¹

7. On or about September 21, 2021, Respondent submitted a Notice of Defense.

BURDEN OF PROOF

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

FIRST CAUSE FOR DENIAL

(Failure to Provide Information and Establish Eligibility)

9. Respondent’s Application is subject to denial because on October 8, 2008, the Siskiyou County Superior Court convicted Respondent of violating Penal Code section 243(e)(1),² Assault and Battery, a misdemeanor and when the Bureau requested that he do so,

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

² “When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant’s child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. If probation is granted, or the execution or imposition of the sentence is suspended, it shall be a condition thereof that the defendant participate in, for no less than one

1 Respondent provided untrue or misleading information to the Bureau concerning the
2 circumstances that led to his arrest and conviction.

3 a. Respondent disclosed the conviction in his Application and reported that he
4 encountered the victim, with whom he had previously been romantically involved, at
5 a party. Respondent reported to the Bureau that once “she realized who [he] was,
6 there was an awkwardness followed by flirting, which [he] shot down. . . . Everyone
7 got drunk, and . . . all tried to go to sleep.” He could not sleep though, and went
8 outside “for a cigarette, and [saw the victim] and her friend leave without saying a
9 word. . . . The following day” the police brought “him in for questioning.”

10 Respondent reported that “during interrogation” he broke and told them “what they
11 wanted to hear.”

12 b. The Bureau obtained copies of the police reports regarding the incident that led
13 to Respondent’s conviction. One report details how during an interview with law
14 enforcement the date after the party, Respondent admitted to sexually assaulting the
15 victim and provided specific details concerning the act.

16 10. Respondent’s supplying of untrue or misleading information to the Bureau upon the
17 Bureau’s request for more information regarding his conviction renders him disqualified from
18 licensing pursuant to Business and Profession Code section 19859, subdivisions (a) and (b) and
19 demonstrates Respondent’s failure to establish his eligibility.

20 (Bus. & Prof. Code, §§ 19850, 19857, subs. (a) & (b), 19859, subs. (a) & (b) [mandatory
21 denial], 19866; Cal. Code Regs., tit. 4, § 12040 subd. (a).)

22 **SECOND CAUSE FOR DENIAL**

23 **(Misdemeanor Conviction for Assault and Battery)**

24 11. Respondent’s Application is further subject to denial in that Respondent’s conviction
25 and the facts and circumstances leading to the conviction indicate that he is not a person of good
26 _____
26 year, and successfully complete, a batterer’s treatment program, as described in Section 1203.097,
27 or if none is available, another appropriate counseling program designated by the court.
27 However, this provision shall not be construed as requiring a city, a county, or a city and county
28 to provide a new program or higher level of service as contemplated by Section 6 of Article
XIII B of the California Constitution.”

1 character, honesty or integrity, and that his prior activities and criminal record demonstrate that
2 he may pose a threat to the effective regulation and control of gambling.

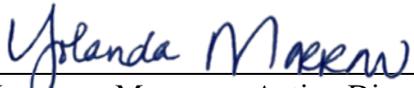
3 (Bus. & Prof. Code, §§ 19856, 19857, subs. (a) & (b); Cal. Code. Regs., tit. 4, § 12040 subd.
4 (a).)

5 **PRAYER**

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

- 8 1. Denying Respondent's Application;
- 9 2. Cancelling Respondent's Third Party Player Registration No. TPPL-026465; and
- 10 3. Taking such other and further action as the Commission may deem appropriate.

11
12 Dated: December 28, 2021

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14 _____
15 YOLANDA MORROW, Acting Director
16 Bureau of Gambling Control
17 California Department of Justice
18 Complainant
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1 **APPENDIX A**

2 **Business and Professions Code**

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 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,
16 directly or indirectly, with a licensed gambling operation, or
17 the ownership or management thereof, by unqualified or
18 disqualified persons, or by persons whose operations are
19 conducted in a manner that is inimical to the public health,
20 safety, or welfare.

21 (b) For the purposes of this section, “unqualified person” means a
22 person who is found to be unqualified pursuant to the criteria set forth
23 in Section 19857, and “disqualified person” means a person who is
24 found to be disqualified pursuant to the criteria set forth in Section
25 19859.

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

27 The commission shall have all powers necessary and proper to
28 enable it fully and effectually to carry out the policies and purposes of
this chapter,³ 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
individual owner endorsed on the license certificate of the gambling

³ “Chapter” refers to Business and Professions Code, division 8, chapter 5 (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 19850, provides:

8 Every person who, either as owner, lessee, or employee, whether
9 for hire or not, either solely or in conjunction with others, deals,
10 operates, carries on, conducts, maintains, or exposes for play any
11 controlled game in this state, or who receives, directly or indirectly,
12 any compensation or reward, or any percentage or share of the money
13 or property played, for keeping, running, or carrying on any controlled
14 game in this state, shall apply for and obtain from the commission, and
15 shall thereafter maintain, a valid state gambling license, key employee
16 license, or work permit, as specified in this chapter. In any criminal
17 prosecution for violation of this section, the punishment shall be as
18 provided in section 337j of the Penal Code.

19 5. Business and Professions Code, section 19853, subdivision (a), provides, in part:

20 The commission, by regulation or order, may require that the
21 following persons register with the commission, apply for a finding of
22 suitability as defined in subdivision (i) of [Business and Professions
23 Code, section] 19805, or apply for a gambling license:

24 * * *

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

27 6. Business and Professions Code section 19856 provides:

28 (a) Any person who the commission determines is qualified to
receive a state license, having due consideration for the proper
protection of the health, safety, and general welfare of the residents of
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.

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

(c) In reviewing an application for any license, the commission
shall consider whether issuance of the license is inimical to public
health, safety, or welfare, and whether issuance of the license will

1 undermine public trust that the gambling operations with respect to
2 which the license would be issued are free from criminal and dishonest
elements and would be conducted honestly.

3 7. Business and Professions Code, section 19857 provides, in part:

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

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

7 (b) A person whose prior activities, criminal record, if any,
8 reputation, habits, and associations do not pose a threat to the public
9 interest of this state, or to the effective regulation and control of
10 controlled gambling, or create or enhance the dangers of 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 incidental thereto.

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

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

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

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

18 9. Business and Professions Code, section 19866 provides:

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

22 10. Business and Professions Code, section 19870 provides:

23 (a) The commission, after considering the recommendation of the
24 chief^[4] and any other testimony and written comments as may be
presented at the meeting, or as may have been submitted in writing to
25 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
26 hold the license.

27 (b) When the commission grants an application for a license or
approval, the commission may limit or place restrictions thereon as it

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

1 may deem necessary in the public interest, consistent with the policies
2 described in this chapter.

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

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

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

16 11. Business and Professions Code, section 19871 provides:

17 (a) The commission meeting described in Section 19870 shall be
18 conducted in accordance with regulations of the commission and as
19 follows:

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

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

23 (A) To call and examine witnesses.

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

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

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

(E) To offer rebuttal evidence.

(3) If the applicant does not testify in her or his 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

1 make improper the admission of that evidence over objection in a
2 civil action.

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

7 **California Code of Regulations, title 4**

8 12. California Code of Regulations, title 4, section 12040 provides, in part:

9 (a) An application for an initial or renewal license:

10 (1) Will be denied if the Commission finds that the
11 applicant has not satisfied the requirements of Business and
12 Professions Code section 19857; or,

13 (2) Will be denied if the Commission finds that any of the
14 provisions of Business and Professions Code section 19859 apply
15 to the applicant.

16 13. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
17 part:

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

23 14. California Code of Regulations, title 4, section 12060, provides:

24 (a) If the Executive Director determines it is appropriate, he or she
25 may set an application for consideration at a GCA hearing in advance
26 of a meeting pursuant to Section 12054. The Executive Director shall
27 give notice to the applicant, pursuant to paragraph (2) subsection (c) of
28 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.

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

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

6 (c) The presiding officer shall have no communication with the
7 Commission or Commission staff upon the merits, or upon
8 information or documents related to the application prior to the
9 evidentiary hearing. The Executive Director shall designate a
10 presiding officer which shall be:

- 11 (1) A member of the Commission's legal staff; or,
- 12 (2) An Administrative Law Judge.

13 (d) The applicant or the complainant, or the applicant and the
14 complainant, may request a continuance in writing to the Executive
15 Director stating the reason for the continuance and any proposed
16 future hearing dates. The Executive Director or Commission may
17 approve the request.

18 (e) The complainant shall provide to the applicant, at least 45
19 calendar days prior to the GCA hearing, and the applicant shall
20 provide to the complainant, at least 30 calendar days prior to the GCA
21 hearing, the following items.

- 22 (1) A list of potential witnesses with the general subject of
23 the testimony of each witness;
- 24 (2) Copies of all documentary evidence intended to be
25 introduced at the hearing and not previously provided;
- 26 (3) Reports or statements of parties and witnesses, if
27 available; and
- 28 (4) All other written comments or writings containing
relevant evidence.

(f) A presiding officer shall rule on the admissibility of evidence
and on any objections raised except for objections raised under
subsection (g). A ruling by the presiding officer shall be final.

(1) In advance of the GCA hearing, upon a motion of a party
or by order of the presiding officer, the presiding officer may
conduct a pre-hearing conference, either in person, via
teleconference, or by email exchange, subject to the presiding
officer's availability and shall issue a pre-hearing order if
appropriate or requested by either party. The pre-hearing
conference and order may address the following:

- (A) Evidentiary issues;
- (B) Witness and exhibit lists;

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(C) Alterations in the Bureau recommendation;

(D) Stipulation for undisputed facts including the admission of the Bureau's report; and

(E) Other issues that may be deemed appropriate to promote the orderly and prompt conduct of the hearing.

(2) The GCA hearing need not be conducted according to technical rules of evidence. Any relevant evidence may be considered, and is sufficient in itself to support findings if it is the sort of evidence on which reasonable 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.

(g) The Commission may, at any time upon a showing of prejudice by the objecting party:

(1) Prohibit the testimony of any witness or the introduction of any documentary evidence that has not been disclosed pursuant to subsection (e); or

(2) Continue any meeting or hearing as necessary to mitigate any prejudice.

(h) The complainant shall present all facts and information in the Bureau report, if any, and the results of the Bureau's background investigation, and the basis for any recommendation, if the Bureau filed one with the Commission according to Business and Professions Code section 19868, to enable the Commission to make an informed decision on whether the applicant has met her, his, or its burden of proof. The complainant may but is not required to recommend or seek any particular outcome during the evidentiary hearing, unless it so chooses.

(i) The burden of proof is on the applicant at all times to prove her, his, or its qualifications to receive any license or other approval under the Act.

(j) The applicant may choose to represent himself, herself, or itself, or may retain an attorney or lay representative.

(k) Except as otherwise provided in subsection (g), the complainant and applicant shall have the right to call and examine witnesses under oath; to introduce relevant exhibits and documentary evidence; to cross-examine opposing witnesses on any relevant matter, even if the matter was not covered in direct examination; to impeach any witness, regardless of which party first called the witness to testify; and to offer rebuttal evidence. If the applicant does not testify on her, his or its own behalf, the applicant may be called and examined, under oath, as if under cross-examination.

(l) Oral evidence shall be taken upon oath or affirmation, which may be administered by the Executive Director, a member of the

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Commission, or the presiding officer, if an Administrative Law Judge.

(m) At the conclusion of the evidentiary hearing, the members of the Commission shall take the matter under submission, may discuss the matter in a closed session meeting, and may schedule future closed session meetings for deliberation.

California Penal Code

15. California Penal Code, section 243, subdivision (e) provides, in part:

(1) When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant’s child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. If probation is granted, or the executing or imposition of the sentence is suspended, it shall be a condition thereof that the defendant participate in, for no less than one year, and successfully complete, a batterer’s treatment program, as described in Section 1203.097, or if none is available, another appropriate counseling program designated by the court. However, this provision shall not be construed as requiring a city, a county, or a city and county to provide a new program or higher level of service as contemplated by section 6 of Article XIII B of the California Constitution.

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