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

12
13 **In the Matter of the Applications for Third-
Party Proposition Player Services Licenses
14 for:**

15 **QUALIFIED PLAYER SERVICES, LLC
TPPP-000080**

16 and

17 **CASEY ZOLNIER
18 TPOW-000341**

19 32295 Mission Trail Rd., Suite 8, Box 260
Lake Elsinore, CA 92530,

20 Respondents.

CGCC Case No. CGCC-2017-1218-16

BGC Case No. BGC-HQ2018-00004SL

STATEMENT OF REASONS

Hearing dates: July 16-18, 2018
Prehearing: June 5, 2018, at 11:00 a.m.
Location: 2399 Gateway Oaks Dr.
Suite 100
Sacramento, CA 95833

21
22 Complainant alleges as follows:

23 **PARTIES**

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

1 or unsuitable persons are associated with controlled gambling activities. (Bus. & Prof. Code, §
2 19824, subs. (b) & (d).)

3 **BURDEN OF PROOF**

4 7. Respondents have the burden of proving their qualifications to receive a license.
5 (Bus. & Prof. Code, § 19856, subd. (a); Cal. Code Regs., tit. 4, § 12060, subd. (i).)

6 **CAUSE FOR DENIAL OF APPLICATION**

7 **(Unqualified for Licensure)**

8 8. Respondents' Applications are subject to denial pursuant to Business and Professions
9 Code sections 19856 and 19857, subdivisions (a) and (b), and California Code of Regulations,
10 title 4, section 12218.11, subdivision (e). Mr. Zolnier is not a person of good character, honesty,
11 and integrity. Mr. Zolnier's prior activities, associations, and business methods demonstrate that
12 he poses a threat to the public interest and to the effective regulation of controlled gambling and
13 that he creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and
14 activities in the conduct of controlled gambling. Respondents' prior activities, associations, and
15 business methods give the impression of collusion between Respondents and Lake Elsinore. That
16 impression undermines the public trust's that controlled gambling operations will be conducted
17 honestly and free from criminal and corruptive elements. Respondents' activities, associations,
18 and business methods include, without limitation, the following:

- 19 a. Mr. Zolnier became a 30-percent member of Grade 1 OTB, LLC (Grade 1), which
20 provides certain services related to off-track satellite wagering at Commerce Casino,
21 a licensed gambling establishment. The funds for investment came primarily from a
22 checking account that Mr. Zolnier holds jointly with James Zolnier. Mr. Zolnier
23 began investing funds in, and making capital contributions to, Grade 1 as early as
24 March 2017. Another Grade 1 member is Ted Kingston (Mr. Kingston), a 50-percent
25 owner of Lake Elsinore. Like Mr. Zolnier, Mr. Kingston holds a 30-percent
26 membership interest in Grade 1. Even though Grade 1 does not provide services to
27 Lake Elsinore or the off-track satellite wagering facility on Lake Elsinore's premises,
28 Grade 1 uses Lake Elsinore for promotional and marketing purposes. Additionally,

1 Grade 1's website lists as its contact number the telephone number for Armen
2 Zennedjian, who is a convicted felon. Armen Zennedjian is paid fees by Grade 1 to
3 promote its business. Grade 1's other members are two relatives of Armen
4 Zennedjian. Those relatives combine to hold a 40-percent membership interest.
5 Respondents' designated agent reported that undisclosed services were consideration
6 for those interests. In connection with the Applications, Mr. Zolnier failed to provide
7 a complete or signed copy of Grade 1's operating agreement to the Bureau. The
8 operating agreement provided to the Bureau did not include signature pages or any
9 exhibits referred to in the agreement including exhibits necessary to document, or
10 otherwise show, the members' capital contributions. Grade 1's filings with the
11 California Secretary of State failed to disclose Mr. Zolnier's membership interest or
12 his role as a managing member. Respondents failed to immediately submit an
13 amendment to the third-party contract with Lake Elsinore or otherwise immediately
14 disclose Mr. Zolnier's Grade 1 membership interest to the Bureau.

- 15 b. Mr. Zolnier leases a single-family house to Mr. Kingston. The monthly rent paid by
16 Mr. Kingston is less than Mr. Zolnier's monthly debt service for the house. Under
17 the lease signed by Mr. Kingston, he does not pay, or reimburse, Mr. Zolnier for
18 property taxes or property management fees. Based upon documents provided by
19 Respondents and public records, the monthly rent paid is approximately 73 percent of
20 the monthly debt service, management fees, and property taxes.
- 21 c. Respondents entered into the arrangements and agreements alleged in subparagraphs
22 a and b above prior to amending Qualified's proposition player contract with Lake
23 Elsinore. That contract thus was not a complete expression of all agreements
24 between the parties. (Cal. Code Regs., tit. 4, § 12200.7, subd. (b)(21).) Qualified's
25 proposition player contract with Lake Elsinore could not be modified to include the
26 agreements alleged in subparagraphs a and b above because those contracts, among
27 other things, undermine the public trust that the controlled gambling operations
28 covered by the contract will be conducted honestly, free of collusion, and free from

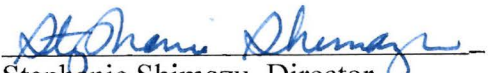
1 criminal and corruptive elements. (Cal. Code Regs., tit. 4, § 12200.9, subd. (a)(1).)
2 Specifically, Respondents have relationships with Mr. Kingston – a gambling
3 establishment owner – that, at a minimum, create the impression that the parties
4 willingly collude to (1) use, and benefit from, the undisclosed activities of a
5 convicted felon and his family in a wagering-related business and (2) subsidize Mr.
6 Kingston substantially.

7 **PRAYER**

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

- 10 1. Denying Respondents' Applications;
11 2. Canceling Respondents' interim renewal licenses, numbers TPPP-000080 and
12 TPOW-000341; and
13 3. Taking such other and further action as the Commission may deem appropriate.

14 Dated: May 14, 2018

15 
16 Stephanie Shimazu, Director
17 Bureau of Gambling Control
18 California Department of Justice
19 Complainant

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

2 **Jurisdictional Provisions**

3 1. Business and Professions Code section 19811 provides, in part:

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

8 2. Business and Professions Code section 19823 provides:

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

11 (1) Assuring that licenses, approvals, and permits are not issued to,
12 or held by, unqualified or disqualified persons, or by persons whose
13 operations 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 or
16 indirectly, with a licensed gambling operation, or the ownership or
17 management thereof, by unqualified or disqualified persons, or by
18 persons whose operations are conducted in a manner that is inimical to
19 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 forth in
22 Section 19857, and “disqualified person” means a person who is found to be
23 disqualified pursuant to the criteria set forth in Section 19859.

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

25 The commission shall have all powers necessary and proper to enable it
26 fully and effectually to carry out the policies and purposes of this chapter,
27 including, without limitation, the power to do all of the following:

28 * * * *

(b) For any cause deemed reasonable by the commission, . . . 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 enterprise whether or not
the commission takes action against the license of the gambling enterprise.

* * * *

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

4 4. Business and Professions Code section 19826 provides, in part:

5 The department² . . . shall have all of the following responsibilities:

6 (a) To receive and process applications for any license, permit, or other
7 approval, and to collect all related fees. The department shall investigate the
8 qualifications of applicants before any license, permit, or other approval is
9 issued, and investigate any request to the commission for any approval that
10 may be required pursuant to this chapter. The department may recommend
11 the denial or limitation, conditioning, or restriction on any license, permit, or
12 other approval.

13 **Specific Statutory and Regulatory Provisions**

14 5. Business and Professions Code, section 19801 provides, in part:

15 (g) Public trust that permissible gambling will not endanger public
16 health, safety, or welfare requires that comprehensive measures be enacted
17 to ensure that gambling is free from criminal and corruptive elements, that
18 it is conducted honestly and competitively

19 (h) Public trust and confidence can only be maintained by strict
20 comprehensive regulation of all persons, locations, practices, associations,
21 and activities related to the operation of lawful gambling establishments
22 and the manufacture and distribution of permissible gambling equipment.

23 * * * *

24 (k) In order to effectuate state policy as declared herein, it is
25 necessary that gambling establishments, activities, and equipment be
26 licensed, that persons participating in those activities be licensed or
27 registered, that certain transactions, events, and processes involving
28 gambling establishments and owners of gambling establishments be subject
to prior approval or permission, that unsuitable persons not be permitted to
associate with gambling activities or gambling establishments Any
license or permit issued, or other approval granted pursuant to this chapter,
is declared to be a revocable privilege, and no holder acquires any vested
right therein or thereunder.

29 ² “Department” refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
30 (h).)

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6. Business and Professions Code section 19856 provides:

(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, and welfare, and whether issuance of the license will 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.

7. Business and Professions Code section 19857 provides:

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

- (a) A person of good character, honesty and integrity.
- (b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of 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.
- (c) A person that is in all other respects qualified to be licensed as provided in this chapter.

8. 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.

1 9. California Code of Regulations, title 4, section 12060, subdivision (i) provides:

2 (i) The burden of proof is on the applicant at all times to prove
3 his her, or its qualifications to receive any license or other approval
4 under the Act.^[3]

5 10. California Code of Regulations, title 4, section 12200.7 provides, in part:

6 (b) Each proposition player contract must specifically require
7 all of the following to be separately set forth at the beginning of the
8 contract in the following order:

9 * * * *

10 (21) That the contract is a complete expression of all
11 agreements and financial arrangements between the parties; that
12 any addition to or modification of the contract, including any
13 supplementary written or oral agreements, must be approved in
14 advance by the Bureau . . . before the addition or modification
15 takes effect.

16 11. California Code of Regulations, title 4, section 12200.9 provides, in part:

17 (a)(1) Proposition player services must not be provided except
18 pursuant to a written proposition player contract approved in advance by
19 the Bureau. . . . The Bureau must approve a proposition player contract
20 only if all the following requirements have been satisfied:

21 (A) The contract is consistent with this regulation and the Act.

22 (B) The contract does not provide for controlled gambling that
23 will be conducted in a manner that is inimical to the public health,
24 safety, or welfare.

25 (C) The contract will not create or enhance the dangers of
26 unsuitable, unfair, or illegal practices, methods, or activities in the
27 conduct of controlled gambling or in the carrying on of the business
28 and related financial arrangements.

(D) The contract will not undermine the public trust that the
controlled gambling operations covered by the contract will be
conducted honestly, by reason of the existence or perception of any
collusive arrangement between any party to the contract and the
holder of a state gambling license, or otherwise.

³ “Act” refers to the Gambling Control Act. (Bus. & Prof. Code, § 19800, et seq.)

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12. 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.