

1 XAVIER BECERRA
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 T. MICHELLE LAIRD
Supervising Deputy Attorney General
4 PARAS H. MODHA
Deputy Attorney General
5 State Bar Number 215761
1300 I Street, Suite 125
6 P.O. Box 944255
Sacramento, CA 94244-2550
7 Telephone: (916) 210-7754
Fax: (916) 327-2319
8 E-mail: Paras.Modha@doj.ca.gov
Attorneys for Complainant



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

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

17 **ELENA DEL CARMEN DROUILLARD,**
18 **A.K.A.: ELENA DEL CARMEN**
CERVANTES and LAYNA CERVANTES



21 **Respondent.**

CGCC Case No. CGCC-2019-0207-8A
BGC Case No. BGC-HQ2019-00004SL

STATEMENT OF REASONS

22 **PARTIES**

24 1. Stephanie K. Shimazu (Complainant) submits 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).

27 2. On May 22, 2017, the Bureau received an Application for Third-Party Proposition
28 Players Services License for Supervisor, Player or Other Employee, and a Level II Supplemental

1 Information (collectively, Application) from Elena Del Carmen Drouillard, also known as: Elena
2 Del Carmen Cervantes and Layna Cervantes, (Respondent) to allow her employment as a third-
3 party proposition player services supervisor for Blackstone Gaming, LLC, (Blackstone) a
4 registered third-party proposition player services provider, registration number TPPP-00119.¹

5 3. Respondent has been employed by Blackstone as a third-party proposition player
6 services supervisor since March of 2016, registration number TPSU-001328. From July of 2014
7 to March of 2016, Respondent was employed by PT Gaming, LLC, as a third-party proposition
8 player services supervisor. From February of 2012 to August of 2014, Respondent was employed
9 by Team View Player Services, LLC, as a third-party proposition player supervisor.

10 4. On or about November 26, 2018, the Bureau submitted a Third-Party Player
11 Background Investigation Report to the Commission in which it recommended that Respondent's
12 Application be denied.

13 5. On or about February 7, 2019, the Commission referred consideration of
14 Respondent's Application to an evidentiary hearing, which is to be held pursuant to California
15 Code of Regulations, title 4, section 12060.²

16 6. Respondent submitted a Notice of Defense, which is dated February 21, 2019.

17 **BURDEN OF PROOF**

18 7. Respondent has the burden of proving her qualifications to receive a license.
19 (Bus. & Prof. Code, § 19856, subd. (a).)

20 **FIRST CAUSE FOR DENIAL**

21 **(Providing False or Misleading Information to the Bureau and Failing to Disclose 22 Information to the Bureau)**

23 8. Respondent's Application is subject to denial and her registration subject to
24 revocation or cancellation in that on June 4, 2013, during a site-visit of Casino M8trix conducted

25 _____
26 ¹ Respondent was required to apply for a license as a supervisor because Blackstone was
called forward to apply to convert its registration to a license on April 20, 2017.

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

1 by the Bureau, Respondent provided false or misleading information to the Bureau regarding the
2 functionality of the Profitable Casino System, the software system used by her employer, Team
3 View Player Services, LLC, the provider of third-party proposition player services at Casino
4 M8trix. In response to direct questioning, Respondent gave false or misleading information to the
5 Bureau about her actual use of the Profitable Casino System to track chip count and/or profit and
6 loss data for each table.

7 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) [mandatory denial] &
8 (b) [mandatory denial] & 19866; Cal. Code. Regs., tit. 4, §§ 12200.18, subds. (a), (b) & (f), 12205
9 & 12218.11, subds. (e) [mandatory denial], (f) [mandatory denial] & (j) [mandatory denial].)
10 [mandatory denial].)

11 **SECOND CAUSE FOR DENIAL**

12 **(Providing False or Misleading Information to the Bureau and Failing to Disclose**
13 **Information to the Bureau)**

14 9. Respondent's Application is subject to denial and her registration subject to
15 revocation or cancellation in that in a written statement dated August 2, 2018, Respondent
16 provided false or misleading statements to the Bureau regarding her knowledge of Profitable
17 Casino System, as alleged in paragraph 9 above and incorporated herein by reference, by stating
18 to the Bureau that the information she provided to the Bureau during its site-visit of Casino
19 M8trix on June 4, 2013, "had been conveyed" to her by Tim Gustin, the owner of Team View
20 Player Services, LLC.

21 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) [mandatory denial] &
22 (b) [mandatory denial] & 19866; Cal. Code. Regs., tit. 4, §§ 12200.18, subds. (a), (b) & (f), 12205
23 & 12218.11, subds. (e) [mandatory denial], (f) [mandatory denial] & (j) [mandatory denial].)
24 [mandatory denial].)

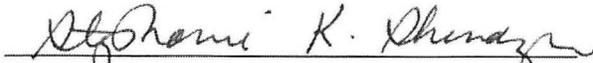
25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Commission issue a decision:
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1. Denying Respondent's Application for third-party proposition player services supervisor license;
2. Revoking or cancelling Respondent's registration, number TPSU-001328; and
3. Taking such other and further action as the Commission may deem appropriate.

Dated: May 6, 2019


STEPHANIE K. SHIMAZU, DIRECTOR
Bureau of Gambling Control
California Department of Justice

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APPENDIX A
JURISDICTION

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

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

2. Business and Professions Code section 19823 provides:

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

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

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

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

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

The commission shall have all powers necessary and proper to 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

³ “Chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

1 against the license of an individual owner endorsed on the license
2 certificate of the gambling enterprise whether or not the
3 commission takes action against the license of the gambling
4 enterprise.

* * *

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

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

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

* * *

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 chief⁴ 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 prepare
27 and file a detailed statement of its reasons for the denial.

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

(e) A decision of the commission denying a license or approval,
or imposing any 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 the Code of Civil
Procedure shall not apply to any judicial proceeding described in the
foregoing sentence, and the court may grant the petition only if the

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

1 court finds that the action of the commission was arbitrary and
2 capricious, or that the action exceeded the commission's jurisdiction.

3 6. Business and Professions Code section 19871 provides:

4 (a) The commission meeting described in Section 19870 shall be
5 conducted in accordance with regulations of the commission and as
6 follows:

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

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

10 (A) To call and examine witnesses.

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

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

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

18 (E) To offer rebuttal evidence.

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

22 (4) The meeting need not be conducted according to
23 technical rules relating to evidence and witnesses. Any relevant
24 evidence may be considered, and is sufficient in itself to support a
25 finding, if it is the sort of evidence on which responsible persons
26 are accustomed to rely in the conduct of serious affairs, regardless
27 of the existence of any common law or statutory rule that might
28 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^[5] 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.

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

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

2 The commission shall establish reasonable criteria for, and
3 require the licensure and registration of, any person or entity that
4 provides proposition player services to gambling establishments
5 pursuant to this section, including owners, supervisors, and
6 players The commission may impose licensing requirements,
7 disclosures, approvals, conditions, or limitations as it deems necessary
8 to protect the integrity of controlled gambling in this state

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

11 If the Commission elects to hold an evidentiary hearing, the
12 hearing will be conducted as a GCA hearing under Section 12060,
13 unless the Executive Director or the Commission determines the
14 hearing should be conducted as an APA hearing under Section
15 12058

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

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

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

23 Registrations, licenses, and badges are specific to the primary
24 owner. Third party proposition player services cannot be provided
25 without first applying for and obtaining a registration, license, or
26 badge.

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

28 (a) Any regular registration issued in accordance with this
chapter^[6] 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:

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

1 (1) Provide written notice to the registrant and the Bureau
2 of the cancellation of the registration and the grounds thereof, and
3 provide written notice of the cancellation to the owner, if the
4 registrant is a supervisor, player, or other employee and to any
5 gambling establishment in which the registrant provides
6 proposition player services.

7 (2) Notify the registrant, if an individual, that he or she is
8 required to surrender the registrant's badge to the Commission
9 not more than ten days following the date that the notice of the
10 cancellation was mailed or such greater time as is authorized by
11 the Executive Director.

12 **SPECIFIC STATUTORY PROVISIONS**

13 12. Business and Professions Code section 19856 provides:

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

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

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

13. Business and Professions Code section 19857 provides:

No gambling license shall be issued unless, based on all of 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.

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

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

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

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

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

14 15. Business and Professions Code section 19866 provides:

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

20 16. California Code of Regulations, title 4, section 12200.18, provides, in part:

21 The Commission may revoke a registration or license, upon any
22 of the following grounds, after a hearing conducted pursuant to the
23 same procedures applicable to the revocation of a gambling
24 establishment license:

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

28 (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.

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

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17. 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:

* * *

(c) The requester has, within the ten (10) year period immediately preceding the submission of the request to convert, been convicted of a misdemeanor . . . dishonesty or moral turpitude unless the applicant has been granted relief pursuant to Penal Code section 1203.4, 1203.4a or 1203.45, provided, however, that the granting of relief pursuant to Penal Code section 1203.4, 1203.4a or 1203.45 shall not constitute a limitation on the discretion of the Commission.

* * *

(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.