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

13
 14 In the Matter of the Statement of Reasons for
 Denial of Application for a Third-Party
 15 Proposition Player Services Supervisor License
 for:

BGC Case No.: BGC-HQ2021-00006SL
 Case No.: CGCC-2021-0121-9Ai

STATEMENT OF REASONS

17 **TONY Y. MOUA**
 18 [Redacted]

19 Respondent.
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1 Complainant alleges as follows:

2 **PARTIES**

3 1. Nathan DaValle (Complainant) brings this Statement of Reasons for Denial of
4 Application for a Third-Party Proposition Player Services Supervisor License solely in his official
5 capacity as the Acting Director of the California Department of Justice, Bureau of Gambling
6 Control (Bureau).

7 2. Halcyon Gaming, LLC (Halcyon), a registered third-party proposition player services
8 provider, registration number TPPP-000143, has employed Tony Y. Moua (Respondent) since
9 approximately November 2019. On or about November 7, 2019, the California Gambling
10 Control Commission (Commission) issued third-party proposition player services registration
11 number TPSU-001767 to Respondent.

12 3. On or about January 8, 2020, the Bureau received an initial Application for Third-
13 Party Proposition Player Services License for Supervisor, Player or Other Employee, together
14 with a Level II Supplemental Information form (collectively, Application) from Respondent. The
15 Application was to allow for his employment as a third-party player services supervisor for
16 Halcyon.

17 4. Prior to his employment at Halcyon, PT Gaming, LLC, a licensed third-party
18 proposition player services provider, license number TPPP-000004, employed Respondent from
19 April 2015 to December 2015 as a third-party proposition player. L.E. Gaming, Inc., a licensed
20 third-party proposition player services provider, license number TPPP-000118, employed
21 Respondent as a third-party proposition player from December 2015 until May 2017, and as a
22 third-party proposition player services supervisor from June 2017 until October 2019.
23 Respondent also worked as a table games dealer for Thunder Valley Casino & Resort from May
24 2016 to August 2016.

25 5. On or about November 30, 2020, the Bureau submitted a Third-Party Supervisor
26 Initial Background Investigation Report, Level III, to the Commission recommending that
27 Respondent's Application be denied.
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1 that is material to his Application. When asked by the Bureau to provide information concerning
2 his termination, Respondent provided information in conflict with his employment records. (Bus.
3 & Prof. Code, §§ 19856, 19857, subd. (a), 19859, subds. (a) & (b) [mandatory denial], 19866;
4 Cal. Code Regs., tit. 4, §§ 12040, subds. (a)(1), (2) [mandatory denial].)

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 for Third-Party Proposition Player Services
9 Supervisor License;
- 10 2. Voiding Respondent's registration number TPSU-001767; and
- 11 3. Taking such other and further action as the Commission may deem appropriate.

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13 Dated: June 10, 2021



Nathan DaValle, Acting Director
Bureau of Gambling Control
California Department of Justice

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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
subdivision (i) of 19805, or apply for a gambling license:

4 * * *

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

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

8 (a) The commission, after considering the recommendation of the chief⁴ and any
9 other testimony and written comments as may be presented at the meeting, or as may
10 have been submitted in writing to the commission prior to the meeting, may either
11 deny the application or grant a license to an applicant who it determines to be
12 qualified to hold the license.

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

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

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

20 (e) A decision of the commission denying a license or approval, or imposing any
21 condition or restriction on the grant of a license or approval may be reviewed by
22 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of
23 the Code of Civil Procedure shall not apply to any judicial proceeding described in
24 the foregoing sentence, and the court may grant the petition only if the court finds that
25 the action of the commission was arbitrary and capricious, or that the action exceeded
26 the commission's jurisdiction.

27 6. Business and Professions Code, section 19871 provides:

28 (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.

(E) To offer rebuttal evidence.

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

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

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

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

- 13 7. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
14 part:

15 If the Commission elects to hold an evidentiary hearing, the hearing will be
16 conducted as a GCA hearing under Section 12060, unless the Executive Director or
17 the Commission determines the hearing should be conducted as an APA hearing
18 under Section 12058 . . .

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

20 (a) If the Executive Director determines it is appropriate, he or she may set an
21 application for consideration at a GCA hearing in advance of a meeting pursuant to
22 Section 12054. The Executive Director will give notice to the applicant, pursuant to
23 paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General,
24 and to the Bureau no later than 90 calendar days in advance of the GCA hearing. The
25 Executive Director's determination will be based on information contained in the
26 Bureau's report or other appropriate sources including, without limitation, a request
27 from the Bureau or applicant as well as the Commission's operational considerations.

28 (b) When the Commission has elected to hold a GCA hearing, the Executive
Director will 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.

SPECIFIC STATUTORY PROVISIONS

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

(a) 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.

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

1 10. Business and Professions Code, section 19857 provides, in part:

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

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

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

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

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

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

15 12. Business and Professions Code section 19866 provides:

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

20 13. California Code of Regulations, title 4, section 12040, subdivisions (a)(1) and (a)(2),
21 provide:

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

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

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

27 14. California Code of Regulations, title 4, section 12122, subdivision (d), provides:

28 (d) Upon issuance or denial of a license or Commission work permit by the
Commission, the temporary license will become void and cannot be used thereafter.

THIRD-PARTY PROPOSITION PLAYER PROVISIONS

15. 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 . . .

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16. California Code of Regulations, title 4, section 12130, subdivision (d), provides:

(d) A TPPPS [Third-Party Proposition Player Services] registration includes all conditions of a temporary license provided in subsections (a), (b), and subsections (d) and (e) of Section 12122.

17. California Code of Regulations, title 4, section 12270, subdivisions (b)(8) and (b)(9), provide:

(b) . . .

* * *

(8) That proposition player services must 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 licensing under Chapter 2.