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

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

18 **ANTHONY GREEN**

20 Respondent.

CGCC Case No.: CGCC-2021-1216-12C

BGC Case No.: BGC-HQ2021-00043SL

STATEMENT OF REASONS

Hearing Date: September 20, 2022

Hearing Time: 10:00 a.m.

Hearing Place: 2399 Gateway Oaks, Ste. 100
Sacramento, CA 95833

**This hearing will be conducted by means of
video conference on Zoom. The meeting
code is 285 757 8614.**

23 Complainant alleges as follows:

24 **PARTIES**

25 1. Yolanda Morrow (Complainant) brings this Statement of Reasons for Denial of
26 Application for a Third-Party Proposition Player Services Worker License solely in her official
27
28

1 capacity as the Director of the California Department of Justice, Bureau of Gambling Control
2 (Bureau).

3 2. Qualified Player Services, LLC (QPS), a licensed Third-Party Proposition Player
4 Services (TPPPS) provider, employs Anthony Green (Respondent) at the Lake Elsinore Casino
5 (Casino).

6 **THE APPLICATION AND THIS PROCEEDING**

7 3. On May 3, 2021, the Bureau received an Application for Third Party Proposition
8 Player Services Worker License (Application) and a Commission Work Permit or TPPPS
9 Worker: Supplemental Information form (Supplemental) submitted by Respondent and dated
10 April 27, 2021, to hold a position with QPS.

11 4. Respondent was issued a Third Party Worker Temporary License, number TPWK-
12 001034, beginning May 12, 2021 and expiring on April 30, 2023.

13 5. On September 29, 2021, Complainant and Bureau Manager II Brian Gilleland met via
14 telephone with Respondent and designated agent, Michael Hill, and informed them of the basis
15 for the Bureau's recommendation to deny Respondent's Application.

16 6. On September 29, 2021, the Bureau issued its Third Party Worker Initial Background
17 Investigation Report in which it recommended that Respondent's Application be denied.

18 7. On December 16, 2021, the Commission notified Respondent of its decision to refer
19 the matter to an evidentiary hearing pursuant to California Code of Regulations, title 4, section
20 12060, subdivision (a).¹ Included with that written notice was a Notice of Defense form for
21 Respondent to complete and return.

22 8. On or about December 26, 2021, Respondent submitted his completed Notice of
23 Defense.

24 **BURDEN OF PROOF**

25 9. Respondent has the burden of proving he is qualified to be found suitable for
26 licensure. (Bus. & Prof. Code, § 19856, subd. (a).)

27 ¹ The statutes and regulations applicable to this Statement of Reasons are quoted in
28 pertinent part in Appendix A. The full text of the Gambling Control Act is found at Business and
Professions Code section 19800 et seq.

1 **FIRST CAUSE FOR DENIAL**

2 **(Failure to Accurately and Honestly Disclose Required Material Information)**

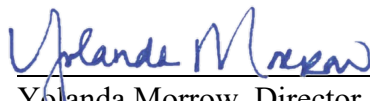
3 10. On April 21, 2011, Respondent was convicted of violating Penal Code section 594,
4 subdivision (b)(2)(A), vandalism less than \$400, a misdemeanor by the San Diego County
5 Superior Court. Respondent was sentenced to three years of probation, ordered to pay a fine and
6 prohibited from controlling, possessing, or having access to any firearm. When asked on the
7 Supplemental whether he had ever been convicted of a misdemeanor or felony, Respondent
8 replied, under penalty of perjury, "No." By not disclosing his previous criminal conviction,
9 Respondent provided inaccurate and misleading information to the Bureau regarding his
10 background and failed to disclose required information that is material to his Application.
11 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subds. (a) & (b) [mandatory denial], 19866; Cal.
12 Code. Regs., tit. 4, §§ 12040, subds. (a)(1), (2) [mandatory denial], 12122, subd. (d), 12130, subd.
13 (d).)

14 **PRAYER**

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

- 17 1. Denying Respondent’s Application;
18 2. Voiding Respondent’s temporary license number TPWK-001034; and
19 3. Taking such other and further action as the Commission may deem appropriate.

20
21 Dated: August 1, 2021

22 
23 _____
24 Yolanda Morrow, Director
25 Bureau of Gambling Control
26 California Department of Justice
27
28

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

2 **STATUTES**

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,^[2] 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 ² “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
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 19856 provides, in part:

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

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

11 6. Business and Professions Code, section 19857 provides:

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

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

15 (b) A person whose prior activities, criminal record, if any, reputation, habits, and
16 associations do not pose a threat to the public interest of this state, or to the effective
17 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
18 controlled gambling, or in the carrying on of the business and financial arrangements
incidental thereto.

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

20 7. Business and Professions Code section 19859 provides, in part:

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

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

24 (b) Failure of the applicant to provide information, documentation, and assurances
25 required by this chapter or requested by the chief,^[3] or failure of the applicant to
26 reveal 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.

27 * * *

28 ³ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 (d) Conviction of the applicant for any misdemeanor involving dishonesty or
2 moral turpitude within the 10-year period immediately preceding the submission of
3 the application, unless the applicant has been granted relief pursuant to Section
4 1203.4, 1203.4a, or 1203.45 of the Penal Code; provided, however, that the granting
5 of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not
6 constitute a limitation on the discretion of the commission under Section 19856 or
7 affect the applicant's burden under Section 19857.

8 8. Business and Professions Code section 19866 provides:

9 An applicant for licensing or for any approval or consent required by this chapter,
10 shall make full and true disclosure of all information to the department^[4] and the
11 commission as necessary to carry out the policies of this state relating to licensing,
12 registration, and control of gambling.

13 9. Business and Professions Code, section 19870 provides:

14 (a) The commission, after considering the recommendation of the chief and any
15 other testimony and written comments as may be presented at the meeting, or as may
16 have been submitted in writing to the commission prior to the meeting, may deny the
17 application, grant a license to an applicant who it determines to be qualified to hold
18 the license, or refer the application to an evidentiary hearing.

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

22 (c) If, during a meeting, the commission denies an application, denies approval, or
23 approves with limits, restrictions, or conditions, the action shall be stayed for a period
24 of 30 days after the meeting, during which the applicant may request an evidentiary
25 hearing. If the applicant does not file a request for an evidentiary hearing within 30
26 days, the action of the commission taken at the meeting is final. If the applicant
27 waives the right to hearing and assents to the action of the commission in writing,
28 upon receipt of the waiver by the commission, the action shall no longer be stayed. If
the applicant files a timely request for an evidentiary hearing, the action shall be
vacated and the application shall be reviewed de novo at the evidentiary hearing.

(d) When an application is denied after an evidentiary hearing, the commission
shall prepare and file a detailed statement of its reasons for the denial.

(e) All proceedings relating to an application at a meeting of the commission or at
an evidentiary hearing shall be recorded stenographically or by audio or video
recording.

(f) A decision of the commission after an evidentiary hearing, 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 does not apply to any
judicial proceeding held to consider that petition, and the court may grant the petition
only if the court finds that the action of the commission was arbitrary and capricious,
or that the action exceeded the commission's jurisdiction.

27 ⁴ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
28 (h).)

1 10. Business and Professions Code, section 19871 provides:

2 (a) An evidentiary hearing described in Section 19870 shall be conducted in
3 accordance with regulations of the commission and as follows:

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

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

6 (A) To call and examine witnesses.

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

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

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

12 (E) To offer rebuttal evidence.

13 (3) If the applicant does not testify on their own behalf, the applicant may
14 be called and examined as if under cross-examination.

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

22 (b) This section does not confer upon an applicant a right to discovery of the
23 department's investigative reports or to require disclosure of any document or
24 information the disclosure of which is otherwise prohibited by any other provision of
25 this chapter.

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

27 The commission shall establish reasonable criteria for, and require the licensure and
28 registration of, any person or entity that provides proposition player services at
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 . . .

REGULATIONS

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

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

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

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

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

6 If the Commission elects to hold an evidentiary hearing, . . . the hearing will be
7 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
8 under Section 12058.

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

10 (a) If the Executive Director determines it is appropriate, he or she may set an
11 application for consideration at a GCA hearing in advance of a meeting pursuant to
12 Section 12054. The Executive Director will give notice to the applicant, pursuant to
13 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
14 Executive Director's determination will be based on information contained in the
Bureau's report or other appropriate sources including, without limitation, a request
15 from the Bureau or applicant as well as the Commission's operational considerations.

16 (b) When a GCA hearing is elected pursuant to Section 12056, subsection (a), the
17 Executive Director will give notice to the applicant, pursuant to paragraph (2)
18 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.

19 (c) An applicant may request that his, her, or its GCA hearing be held at a
20 Southern California location instead of the Commission's principal office in
21 Sacramento, by completing the appropriate section on the Notice of Defense, CGCC-
22 CH1-03 (Rev. 08/21). The request must be made on the initial Notice of Defense
23 form submitted to the Commission and Bureau within the timeframes specified on the
form.

24 (1) The Executive Director will approve a Southern California GCA
25 hearing, if the request is timely made on the initial Notice of Defense form
and meets all of the following criteria:

26 (A) The GCA hearing is estimated by Commission staff to last no
27 longer than four hours.

28 (B) The primary residence of the applicant is located in one of the
following counties: Imperial, Kern, Los Angeles, Orange, Riverside, San
Diego, San Luis Obispo, San Bernardino, Santa Barbara, or Ventura.

(C) A GCA hearing will be noticed for a Southern California
location only when it is in the best public interest, promotes judicial
economy, and comports with the Commission's availability.

1 (2) If at any time before the hearing, the Executive Director determines
2 that the criteria in subparagraphs (A) through (C) of paragraph (1) are no
3 longer met, Commission staff may cancel the Southern California GCA
4 hearing and issue a new notice for a hearing at the Commission's principal
5 office in Sacramento.

6 (d) The presiding officer and her or his support staff will have no communication
7 with the Commission or Commission staff upon the merits of an application prior to
8 the evidentiary hearing. The Executive Director will designate a presiding officer
9 which will be:

10 (1) A member of the Commission's legal staff; or,

11 (2) An Administrative Law Judge.

12 (e) The applicant or the complainant, or the applicant and the complainant, may
13 request a continuance in writing to the Executive Director stating the reason for the
14 continuance and any proposed future hearing dates. The Executive Director or
15 Commission may approve the request. For a Southern California GCA hearing, if a
16 continuance is granted, the hearing may be scheduled in Sacramento or Southern
17 California based on the criteria specified in subparagraphs (A) through (C) of
18 paragraph (1) of subsection (c).

19 (f) The complainant will provide to the applicant, subject to subsection (b) of
20 Section 12056, at least 45 calendar days prior to the GCA hearing, and the applicant
21 must provide to the complainant, at least 30 calendar days prior to the GCA hearing,
22 the following items:

23 (1) A list of potential witnesses with the general subject of the testimony
24 of each witness;

25 (2) Copies of all documentary evidence intended to be introduced at the
26 hearing and not previously provided;

27 (3) Reports or statements of parties and witnesses, if available; and

28 (4) All other written comments or writings containing relevant evidence.

(g) A presiding officer will rule on the admissibility of evidence and on any
objections raised except for objections raised under subsection (h). A ruling by the
presiding officer is 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 will 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;

(C) Alterations in the Bureau recommendation;

1 (D) Stipulations for undisputed facts and/or the admission of
2 evidence including without limitation the Bureau's report;

3 (E) Authorizing offsite livestreaming appearances for parties or
4 witnesses if good cause has been presented and only if the process for
5 offsite livestreaming has been approved by the Executive Director; and,

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

8 (2) The GCA hearing need not be conducted according to technical rules
9 of evidence. Any relevant evidence may be considered, and is sufficient in
10 itself to support findings if it is the sort of evidence on which reasonable
11 persons are accustomed to rely in the conduct of serious affairs, regardless of
12 the existence of any common law or statutory rule that might make improper
13 the admission of that evidence over objection in a civil action.

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

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

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

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

28 (j) The burden of proof is always on the applicant to prove his, her, or its
qualifications to receive any license or other approval under the Act.

(k) The applicant may choose to represent himself, herself, or itself, or may retain
an attorney or lay representative. Lay representatives may assist the applicant but are
not authorized to serve as an attorney as otherwise defined and regulated by state law.

(l) Except as otherwise provided in subsection (h), the complainant and applicant
will 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 his, her or its behalf, the
applicant may be called and examined, under oath, as if under cross-examination.

(m) Oral evidence will be taken upon oath or affirmation, which may be
administered by the Executive Director, a member of the Commission, or the
presiding officer if an Administrative Law Judge.

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

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

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

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

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

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

11 (b) . . .

12 * * *

13 (8) That proposition player services must be provided in the gambling
14 establishment only in compliance with laws and regulations pertaining to controlled
gambling.

15 (9) That proposition player services may be provided only by authorized
16 players with current licensing under Chapter 2.

17 **APPENDIX A**

18 **JURISDICTION**

19 1. Business and Professions Code section 19805, subdivision (j), provides:

20 Finding of Suitability means a finding that a person meets the
21 qualification described in subdivisions (a) and (b) of Section 19857,
and that the person would not be disqualified from holding a state
gambling license on any of the grounds specified in Section 19859.

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

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

26 3. Business and Professions Code section 19823 provides:

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

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(1) Assuring that licenses, approvals, and permits are not issued to, or held 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.

(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.

4. 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, 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 enterprise whether or not the commission takes action against the license of the gambling enterprise.

* * *

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

5. Business and Professions Code section 19854, subdivisions (a) and (b) provide:

(a) Every key employee shall apply for and obtain a key employee license.

1 (b) No person may be issued a key employee license unless the
2 person would qualify for a state gambling license.

3 6. Business and Professions Code section 19870 provides:

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

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

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

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

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

27 7. 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.

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(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.

(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^[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.

SPECIFIC STATUTORY AND REGULATORY PROVISIONS

8. Business and Professions Code section 19856, subdivision (a) provides in part:

The burden of proving his or her qualifications to receive any license is on the applicant.

9. Business and Professions Code section 19857 provides in part:

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.

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

1 (b) A person whose prior activities, criminal record, if any,
2 reputation, habits, and associations do not pose a threat to the public
3 interest of this state, or to the effective regulation and control of
4 controlled gambling, or create or enhance the dangers of unsuitable,
5 unfair, or illegal practices, methods, and activities in the conduct of
6 controlled gambling or in the carrying on of the business and financial
7 arrangements incidental thereto.

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10. Business and Professions Code section 19859 provides in part:

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

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

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

11. 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.

12. California Code of Regulations, title 4, section 12054, subdivision (a), provides:

(a) At a non-evidentiary hearing meeting, the Commission may take, but is not limited to taking, one of the following actions:

(1) Issue a license, temporary license, interim license, registration, permit, finding of suitability, renewal or other approval.

(2) Elect to hold an evidentiary hearing in accordance with Section 12056 and, when for a renewal application, issue an interim renewal license pursuant to Section 12035. The Commission shall identify those issues for which it requires additional information or consideration related to the applicant's suitability.

1 (3) Table or continue an item for consideration at a
2 subsequent meeting, for any purpose, including obtaining new or
3 additional information from the applicant, Bureau or
4 Commission staff, provided however in the case of renewals, the
Commission must act on the application before the license
expires.

5 (4) Extend a license for up to 180 calendar days as
6 necessary, as provided in Business and Professions Code section
19876, subdivision (c).

7 (5) Approve or deny a request for withdrawal pursuant to
8 Section 12015.

9 (6) Make a finding of abandonment pursuant to subsection
10 (c) of Section 12017.

11 (7) If the Bureau has filed an accusatory pleading with the
12 Commission pursuant to Business and Professions Code section
19930 prior to Commission action on a renewal application, the
13 Commission shall issue an interim renewal license pursuant to
Section 12035.

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

15 (a) If the Executive Director determines it is appropriate, he or
16 she may set an application for consideration at a GCA hearing in
17 advance of a meeting pursuant to Section 12054. The Executive
18 Director shall give notice to the applicant, pursuant to paragraph (2)
19 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
20 GCA hearing. The Executive Director's determination will be based
21 on information contained in the Bureau's report or other appropriate
22 sources including, without limitation, a request from the Bureau or
23 applicant as well as the Commission's operational considerations. The
Commission retains the authority to refer the matter to an APA
24 hearing pursuant to subsection (a) of Section 12056 or hear the matter
25 at a Section 12054 meeting if the Commission deems it appropriate.

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

(c) The presiding officer shall have no communication with
the Commission or Commission staff upon the merits, or upon

1 information or documents related to the application prior to the
2 evidentiary hearing. The Executive Director shall designate a
presiding officer which shall be:

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

5 (d) The applicant or the complainant, or the applicant and the
6 complainant, may request a continuance in writing to the Executive
7 Director stating the reason for the continuance and any proposed
future hearing dates. The Executive Director or Commission may
approve the request.

8 (e) The complainant shall provide to the applicant, at least 45
9 calendar days prior to the GCA hearing, and the applicant shall
10 provide to the complainant, at least 30 calendar days prior to the GCA
hearing, the following items:

11 (1) A list of potential witnesses with the general subject
of the testimony of each witness;

12 (2) Copies of all documentary evidence intended to be
13 introduced at the hearing and not previously provided;

14 (3) Reports or statements of parties and witnesses, if
15 available; and

16 (4) All other written comments or writings containing
relevant evidence.

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

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

24 (A) Evidentiary issues;

25 (B) Witness and exhibit lists;

26 (C) Alterations in the Bureau recommendation;

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

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

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

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

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

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

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

27 (i) The burden of proof is on the applicant at all times to prove
28 his, her, 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 his, her or its own behalf, the applicant may be called and
examined, under oath, as if under cross-examination.

1 (l) Oral evidence shall be taken upon oath or affirmation,
2 which may be administered by the Executive Director, a member of
3 the Commission, or the presiding officer, if an Administrative Law
4 Judge.

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

9 14. California Code of Regulations, title 4, section 12346, subdivisions
10 (a)(1) and (b)(3), provide:

11 (a) An application for a gambling license shall be denied by
12 the Commission if any of the following apply:

13 (1) The Commission finds that the applicant is
14 ineligible, unqualified, disqualified, or unsuitable pursuant to the
15 criteria set forth in the Act or other applicable law or that granting the
16 license would be inimical to public health, safety, welfare, or would
17 undermine the public trust that gambling operations are free from
18 criminal or dishonest elements.

19 * * *

20 (b) An application for a gambling license may be denied if:

21 * * *

22 (3) The Commission finds that the applicant's past
23 behavior calls into question the applicant's qualification requirements
24 and considerations outlined in Business and Professions Code section
25 19856.

26 15. California Code of Regulations, title 4, section 12354, subdivision (e)(5), provides:

27 (e) With ten day's advance written notice to the interim key
28 employee and to the gambling enterprise, the Executive Director shall
cancel the interim key employee license based upon the following.

* * *

(5) A Bureau recommendation of denial of the
applicant's key employee application.

16. California Code of Regulations, title 4, § 12355, subds. (a) and (b), provide:

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(a) An application for a portable personal key employee license shall be denied by the Commission if any of the following applies:

(1) The Commission finds that the applicant is ineligible, unqualified, disqualified, or unsuitable pursuant to the criteria set forth in the Act or other applicable law or that granting the license would be inimical to public health, safety, welfare, or would undermine the public trust that gambling operations are free from criminal or dishonest elements.

(b) An application for a key employee license may be denied if:

* * *

(2) The Commission finds that the applicant's past behavior calls into question the applicant's qualification requirements and considerations outlined in Business and Professions Code section 19856.

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(Revised 8122) Statement of Reasons