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

14 In the Matter of the Statement of Reasons
Against:

BGC Case No. BGC-HQ2015-00014SL
CGCC Case No. CGCC-2015-0528-10B

16 LINH DUY DAO
a.k.a.: Linh D. Dao

STATEMENT OF REASONS

18
19
20 Respondent.

22 Complainant alleges as follows:

23 PARTIES

24 1. Wayne J. Quint, Jr. (Complainant) brings this Statement of Reasons solely in his
25 official capacity as the Chief of the California Department of Justice, Bureau of Gambling
26 Control (Bureau).
27
28

1 whose operations are conducted in a manner that is inimical to the public
2 health, safety, or welfare.

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

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

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

13 The commission shall have all powers necessary and proper to enable
14 it fully and effectually to carry out the policies and purposes of this
15 chapter,^[2] including, without limitation, the power to do all of the
16 following:

17 * * *

18 (b) For any cause deemed reasonable by the commission, deny any
19 application for a license, permit, or approval provided for in this chapter or
20 regulations adopted pursuant to this chapter, limit, condition, or restrict any
21 license, permit, or approval, or impose any fine upon any person licensed or
22 approved.

23 * * *

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

27 9. Section 6.5.6 of the Tribal-State Compact Between the State of California and the
28 United Auburn Indian Community provides, in part:

Except for an applicant for licensing as a non-key Gaming
Employee, as defined by agreement between the [United Auburn] Tribal
Gaming Agency and the State Gaming Agency, the Tribal Gaming
Agency shall require the applicant also to file an application with the
State Gaming Agency, . . . for a determination of suitability for licensure

² Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,
(commencing with section 19800), also known as the Gambling Control Act.

1 under the California Gambling Control Act. Investigation and disposition
2 of that application shall be governed entirely by state law, and the State
3 Gaming Agency shall determine whether the applicant would be found
4 suitable for licensure in a gambling establishment subject to that
5 Agency's jurisdiction.³

6 **SPECIFIC STATUTORY PROVISIONS**

7 10. Business and Professions Code section 19805, subdivision (j), provides:

8 "Finding of Suitability" means a finding that a person meets the
9 qualification criteria described in subdivisions (a) and (b) of Section
10 19857, and that the person would not be disqualified from holding a state
11 gambling license on any of the grounds specified in Section 19859.

12 11. Under Business and Professions Code section 19856, subdivision (a), the burden of
13 proving his or her qualifications to receive any license is on the applicant.

14 12. Business and Professions Code section 19857 provides:

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

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

19 (b) A person whose prior activities, criminal record, if any,
20 reputation, habits, and associations do not pose a threat to the public
21 interest of this state, or to the effective regulation and control of
22 controlled gambling, or create or enhance the dangers of unsuitable,
23 unfair, or illegal practices, methods, and activities in the conduct of
24 controlled gambling or in the carrying on of the business and financial
25 arrangements incidental thereto.

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

28 13. 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:

³ Although the Tribal-State Compact has been amended subsequent to Respondent's Applications, the quoted language remains unchanged.

1 (b) Failure of the applicant to provide information, documentation,
2 and assurances required by this chapter or requested by the chief,^[4] or
3 failure of the applicant to reveal any fact material to qualification, or the
4 supplying of information that is untrue or misleading as to a material fact
5 pertaining to the qualification criteria.

6 14. Business and Professions Code section 19866 provides:

7 An applicant for licensing or for any approval or consent required
8 by this chapter, shall make full and true disclosure of all information
9 to the department^[5] and the commission as necessary to carry out the
10 policies of this state relating to licensing, registration, and control of
11 gambling.

12 15. Business and Professions Code section 19870 provides:

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

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

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

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

28 (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
court finds that the action of the commission was arbitrary and
capricious, or that the action exceeded the commission's jurisdiction.

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

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

1 16. Business and Professions Code section 19871 provides:

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

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

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

7 (A) To call and examine witnesses.

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

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

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

15 (E) To offer rebuttal evidence.

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

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

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

1 PRAYER

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

- 4 1. Denying Respondent's Initial Application for a finding of suitability;
5 2. Denying Respondent's Renewal Application for a finding of suitability; and
6 3. Taking such other and further action as the Commission may deem appropriate.

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8 Dated: February 18, 2016

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11 WAYNE J. QUINT, JR., Chief
12 Bureau of Gambling Control
13 California Department of Justice
14 Complainant
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