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10 BEFORE THE
11 GAMBLING CONTROL COMMISSION
12 STATE OF CALIFORNIA

14 In the Matter of the Statement of Reasons for
Denial of Application for a Key Employee
15 License and Renewal Work Permit for:

16 **Seakngim Song**
17 

18 **Applicant.**

Case Nos. **CGCC-2021-1007-4B; and
CGCC-2022-0823-9**

**FIRST AMENDED
STATEMENT OF REASONS**

19
20 Complainant alleges as follows:

21 **PARTIES**

22 1. Yolanda Morrow (Complainant) brings this First Amended Statement of Reasons
23 (Operative Pleading) solely in her official capacity as Director of the California Department of
24 Justice, Bureau of Gambling Control (Bureau). This Operative Pleading replaces and supplants
25 the Statement of Reasons filed on March 30, 2022.

26 2. Seakngim Song (Applicant) (license nos. GEKE-002504 and GEWP-002788) was
27 employed by the Outlaws Card Parlour (Outlaws) in various positions from approximately
28

1 September 2018 until approximately October 2022¹. Applicant is also partial owner of the land
2 upon which Outlaws is situated.

3 **INDIVIDUALS RELATED TO THIS PROCEEDING**

4 3. Neal Franklin (Franklin), along with John Wrona, are co-owners with Applicant of
5 the land upon which Outlaws is situated. Franklin is, and continues to be, involved in Applicant's
6 various business holdings and ventures (Businesses). Franklin is not licensed by, and has no
7 application for licensure pending before, the California Gambling Control Commission
8 (Commission).

9 **THE APPLICATION AND THIS PROCEEDING**

10 4. On or about August 30, 2018, the Commission issued to Applicant Temporary Work
11 Permit License Number GEWP-002788 to allow for her work at Outlaws.

12 5. On or about February 27, 2019, the Bureau received an Application for Interim Key
13 Employee License from Applicant. On or about March 27, 2019, the Bureau received an
14 Application for Gambling Establishment Key Employee License and Key Employee
15 Supplemental Background Investigation Information and addendums (collectively, Key
16 Employee Applications) from Applicant to allow for her employment at Outlaws as a Key
17 Employee.

18 6. On or about May 2, 2022, the Bureau received an Application for a Work Permit
19 Renewal, dated April 26, 2022, from Applicant.²

20 7. On or about February 28, 2019, the Commission issued to Applicant Interim Personal
21 Portable Key Employee License Number GEKE-002504.

22 8. On or about July 29, 2021, the Bureau issued its Gambling Establishment Key
23 Employee Initial Background Investigation Report, Level III, for Applicant's Key Employee
24 Applications in which it recommended that the Commission deny Applicant's Key Employee

25 ¹ On October 21, 2022, the Bureau received a Notification of Employee Separation that
26 indicates that Applicant "Quit" working for Outlaws. No further explanation was provided.

27 ² Applicant's Key Employee Applications and Work Permit Renewal Application are
28 collectively referred to as "Applications."

1 Applications. On October 7, 2021, the Commission referred consideration of Applicant's Key
2 Employee Applications to an evidentiary hearing, which is to be held pursuant to California Code
3 of Regulations, title 4, section 12060.³

4 9. On or about October 26, 2021, Applicant submitted a Notice of Defense in reference
5 to her Key Employee Applications.

6 10. On or about July 15, 2022, the Bureau issued its Work Permit Renewal Background
7 Investigation Report, Level III, for Applicant's Work Permit Renewal Application in which it
8 recommended that the Commission deny Applicant's Renewal Application.

9 11. On August 23, 2022, the Commission referred consideration of Applicant's Work
10 Permit Renewal Application to an evidentiary hearing, also to be held pursuant to California Code
11 of Regulations, title 4, section 12060, and consolidated it with the Commission's consideration of
12 Applicant's Key Employee Applications.

13 12. On or about October 7, 2022, Applicant submitted a Notice of Defense in reference to
14 her Work Permit Renewal Application.

15 **BURDEN OF PROOF**

16 13. Applicant has the burden of proving her qualifications to receive a license.
17 (Bus. & Prof. Code, § 19856, subd. (a).)

18 **CAUSE FOR DENIAL**

19 **(Disqualified and Unqualified—Prior Activities and Non-Disclosure)**

20 14. Applicant's Applications are subject to denial because according to the Bureau's
21 review of Applicant's financial records, the principal source of start-up funds for Applicant's
22 Businesses and for her purchase of a partial interest in the Outlaws' property, is cash Franklin
23 gave to Applicant. The source of this cash was monies Franklin kept within a safe deposit box.
24 The movement of funds within Applicant's bank accounts as related to her Businesses and her
25 purchase of a partial interest in the Outlaws' property does not correspond with Applicant's
26 annual earnings.

27 _____
28 ³ The statutes and regulations applicable to this First Amended Statement of Reasons are
quoted in pertinent part in Appendix A.

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APPENDIX A

Business and Professions Code

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,^[4] 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

⁴ “Chapter” refers to Business and Professions Code, division 8, chapter 5 (commencing with section 19800), also known as the Gambling Control Act.

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

3 * * *

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

6
7 4. Business and Professions Code, section 19850 provides:

8 Every person who, either as owner, lessee, or employee, whether
9 for hire or not, either solely or in conjunction with others, deals,
10 operates, carries on, conducts, maintains, or exposes for play any
11 controlled game in this state, or who receives, directly or indirectly,
12 any compensation or reward, or any percentage or share of the money
13 or property played, for keeping, running, or carrying on any controlled
game in this state, shall apply for and obtain from the commission, and
shall thereafter maintain, a valid state gambling license, key employee
license, or work permit, as specified in this chapter. In any criminal
prosecution for violation of this section, the punishment shall be as
provided in section 337j of the Penal Code.

14
15 5. Business and Professions Code, section 19853, subdivision (a), provides, in part:

16 The commission, by regulation or order, may require that the
17 following persons register with the commission, apply for a finding of
suitability as defined in subdivision (i) of [Business and Professions
Code, section] 19805, or apply for a gambling license:

18 (1) Any person who furnishes any services or any property to
19 a gambling enterprise under any arrangement whereby that person
20 receives payments based on earnings, profits, or receipts from
controlled gambling.

21 (2) Any person who owns an interest in the premises of a
22 licensed gambling establishment or in real property used by a
licensed gambling establishment.

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

25 * * *

26 6. Business and Professions Code section 19854 provides, in part:

27 (a) Every key employee shall apply for and obtain a key
28 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 (d) The commission shall establish a program for portable
4 personal licenses for key employees, as well as a process by which
5 valid key employee licenses then in effect shall be converted to
6 personal portable licenses. The commission may, as part of that
7 process, establish a fee to be paid by a key employee when seeking a
8 personal portable license. The commission shall seek to implement
9 the requirements imposed by this subdivision on or before July 1,
10 2008.

11 7. Business and Professions Code section 19855 provides:

12 Except as otherwise provided by statute or regulation, every
13 person who, by statute or regulation, is required to hold a state license
14 shall obtain the license prior to engaging in the activity or occupying
15 the position with respect to which the license is required. Every
16 person who, by order of the commission, is required to apply for a
17 gambling license or a finding of suitability shall file the application
18 within 45 calendar days after receipt of the order.

19 8. Business and Professions Code section 19856 provides:

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

26 (b) An application to receive a license constitutes a request for a
27 determination of the applicant's general character, integrity, and
28 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, or 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.

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

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,

1 reputation, habits, and associations do not pose a threat to the public
2 interest of this state, or to the effective regulation and control of
3 controlled gambling, or create or enhance the dangers of unsuitable,
4 unfair, or illegal practices, methods, and activities in the conduct of
5 controlled gambling, or in the carrying on of the business and financial
6 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 this 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 as 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. Business and Professions Code, section 19870 provides:

(a) The commission, after considering the recommendation of the chief^{5]} and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may deny the application, grant a license to an applicant who it determines to be qualified to hold the license, or refer the license to an evidentiary hearing.

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

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

⁵ “Chief” refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 evidentiary hearing, the action shall be vacated and the application
2 shall be reviewed de novo at the evidentiary hearing.

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

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

9 (f) A decision of the commission after an evidentiary hearing,
10 denying a license or approval, or imposing any condition or restriction
11 on the grant of a license or approval may be reviewed by petition
12 pursuant to Section 1085 of the Code of Civil Procedure. Section
13 1094.5 of the Code of Civil Procedure does not apply to any judicial
14 proceeding held to consider that petition, and the court may grant the
15 petition only if the court finds that the action of the commission was
16 arbitrary and capricious, or that the action exceeded the commission's
17 jurisdiction

18 13. Business and Professions Code, section 19871 provides:

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

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

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

25 (A) To call and examine witnesses.

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

28 (C) To cross-examine opposing witnesses on
any matters relevant to the issues, even if 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 on their own behalf, the
applicant may be called and examined as if under cross-
examination.

(4) The hearing 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

1 improper the admission of that evidence over objection in a civil
2 action.

3 (b) This section does not confer upon an applicant a right to
4 discovery of the department's⁶ investigative reports or to require
5 disclosure of any document or information the disclosure of which is
6 otherwise prohibited by any other provision of this chapter.

7 **CALIFORNIA CODE OF REGULATIONS, TITLE 4**

8 14. California Code of Regulations, title 4, section 12040 provides, in part:

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

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

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

16 15. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
17 part:

18 If the Commission elects to hold an evidentiary hearing, the
19 hearing will be conducted as a GCA hearing under Section 12060,
20 unless the Executive Director or the Commission determines the
21 hearing should be conducted as an APA hearing under Section
22 12058

23 16. California Code of Regulations, title 4, section 12060, provides:

24 (a) If the Executive Director determines it is appropriate, he or
25 she may set an application for consideration at a GCA hearing in
26 advance of a meeting pursuant to Section 12054. The Executive
27 Director will give notice to the applicant, pursuant to paragraph (2)
28 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 Executive Director's determination will be based
on information contained in the Bureau's report or other appropriate
sources including, without limitation, a request from the Bureau or
applicant as well as the Commission's operational considerations.

(b) When a GCA hearing is elected pursuant to Section 12056,
subsection (a), 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

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

1 calendar days in advance of the GCA hearing.

2
3 (c) An applicant may request that his, her, or its GCA hearing be
4 held at a Southern California location instead of the Commission's
5 principal office in Sacramento, by completing the appropriate section
6 on the Notice of Defense, CGCC-CH1-03 (Rev. 08/21). The request
7 must be made on the initial Notice of Defense form submitted to the
8 Commission and Bureau within the timeframes specified on the form.

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

13 (A) The GCA hearing is estimated by
14 Commission staff to last no longer than four
15 hours.

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

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

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

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

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

(2) An Administrative Law Judge.

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

1
2 (f) The complainant will provide to the applicant, subject to
3 subsection (b) of Section 12056, at least 45 calendar days prior to the
4 GCA hearing, and the applicant must provide to the complainant, at
5 least 30 calendar days prior to the GCA hearing, the following items:

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

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

10 (3) Reports or statement of parties and witnesses, if
11 available; and

12 (4) All other written comments or writing containing
13 relevant evidence.

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

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

24 (A) Evidentiary issues;

25 (B) Witness and exhibit lists;

26 (C) Alterations in the Bureau
27 recommendation;

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

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

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

(2) The GCA hearing need not be conducted according
to technical rules of evidence. Any relevant evidence may be
considered, and is sufficient in itself to support findings if it is
the sort of evidence on which reasonable persons are accustomed

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to rely in the conduct of serious affairs, regardless of the

1 existence of any common law or statutory rule that might make
2 improper the admission of that evidence over objection in a civil
action.

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

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

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

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

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

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

18 (l) Except as otherwise provided in subsection (h), the
complainant and applicant will have the right to call and
19 examine witnesses under oath; to introduce relevant exhibits
and documentary evidence; to cross-examine opposing
20 witnesses on any relevant matter, even if the matter was not
covered in direct examination; to impeach any witness,
21 regardless of which party first called the witness to testify; and
to offer rebuttal evidence. If the applicant does not testify on
22 his, her or its behalf, the applicant may be called and examined,
under oath, as if under cross-examination.

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

25 (n) At the conclusion of the evidentiary hearing, the members of
26 the Commission will take the matter under submission, may discuss
the matter in a closed session meeting, and may schedule future closed
27 session meetings for deliberation.
28