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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Statement of Reasons for Denial of Application for Renewal of Key Employee License for:
VA PHONG
License Number GEKE-001287
Respondent.

CGCC Case No. CGCC-2020-0312-9
BGC Case No. BGC-HQ2019-00002AC
STATEMENT OF REASONS
Hearing Date: TBD
Place: 2399 Gateway Oaks, Suite 100
Sacramento, CA 95833

Complainant alleges as follows:

PARTIES

1. Stephanie K. Shimazu (Complainant) submits this Statement of Reasons solely in her official capacity as Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

1 2. On December 10, 2015, the California Gambling Control Commission (Commission)
2 issued a key employee license, license number GEKE-001287, to Va Phong (Respondent). This
3 key employee license allowed Respondent's employment as the general manager of Casino
4 Marysville (Casino).

5 3. On September 4, 2019, the Bureau received a renewal application from Respondent
6 (Renewal Application). On November 14, 2019, the Bureau inadvertently submitted a Level I
7 Renewal Checklist form to the Commission that was missing important information regarding
8 Respondent's suitability for further licensure. The Bureau notified the Commission and
9 Respondent of its error and requested the Commission temporarily extend Respondent's license
10 while the Bureau completed its investigation and recommendation regarding Respondent's
11 suitability for licensure. The Commission issued a temporary extension of Respondent's key
12 employee license.

13 4. On February 11, 2020, the Bureau transmitted to the Commission and Respondent an
14 Addendum to Renewal Checklist, recommending denial of Respondent's Renewal Application.

15 5. At its March 12, 2020 meeting, the Commission referred Respondent's Renewal
16 Application to an evidentiary hearing to be held pursuant to the Gambling Control Act (Act) and
17 California Code of Regulations, title 4, section 12060. At that same meeting, the Commission
18 issued an interim key employee renewal license to Respondent, valid through the conclusion of
19 the evidentiary hearing or December 31, 2021, whichever comes first. (Cal. Code Regs., tit. 4, §
20 12035.)

21 6. Respondent submitted a Notice of Defense, which is dated March 20, 2020.

22 **JURISDICTION AND BURDEN OF PROOF**

23 7. The Commission has jurisdiction over the operation and concentration of gambling
24 establishments and all persons and things having to do with the operation of gambling
25 establishments, which includes the licensure of key employees. (Bus. & Prof. Code, §§ 19811,
26 subd. (b), 19850, 19854.)¹ The Commission's responsibilities include assuring that licenses are

27 ¹ The statutes and regulations applicable to this Statement of Reasons are quoted in
28 pertinent part in Appendix A.

1 not issued to unqualified or disqualified persons and that no unqualified or disqualified person is
2 materially involved with a licensed gambling operation. (Bus. & Prof. Code, § 19823, subd. (a).)
3 The Commission has all powers necessary and proper to carry out the Act's policies and
4 purposes, including the powers to discipline licensees and to take actions to ensure that no
5 ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gambling
6 activities. (Bus. & Prof. Code, § 19824, subds. (b) & (d).)

7 8. Respondent has the burden of proving that he is suitable for licensure and qualified to
8 have his key employee license renewed. (Bus. & Prof. Code, § 19856, subd. (a).)

9 **FIRST CAUSE FOR DENIAL**

10 **(Participating in or Facilitating Violations of Penal Code section 337j and/or Bus. & Prof.
11 Code section 19984, subd. (a) – Interest in Funds Wagered)**

12 9. Respondent's Renewal Application is subject to denial because one or more times in
13 and prior to March 2018, Respondent played one or more controlled games² with the Casino's
14 money while working in his capacity as a key employee. The Bureau is informed and believes
15 that Respondent supervised or directed other Casino employees to do the same. Respondent
16 caused the Casino to have an interest in funds wagered in controlled games it carried on and
17 offered for play, in violation of Penal Code section 337j, subdivision (a)(2), and Business and
18 Professions Code section 19984, subdivision (a). Respondent also caused the Casino to stake
19 games in violation of Penal Code section 337a, subdivision (a)(3). The Casino staked employees
20 with its money to play in poker games. The Casino would then recover the stakes it put at risk, as
21 well as all the employees' winnings, if employees won. The Casino would absorb all the losses
22 of its stakes if the employees lost in playing the poker games. Losses of Casino money by
23 Respondent and other Casino employees were recorded on the Casino's books as "house win"
24 and wins with Casino money were reported as revenue. In addition to violating these provisions
25 himself, Respondent caused the Casino to violate these code sections.

26 ² "Controlled game' means any controlled game, as defined in subdivision (e) of Section
27 337j of the Penal Code." (Bus. & Prof. Code, § 19805, subd. (g).) Penal Code section 337j,
28 subdivision (e)(1), provides in pertinent part that "[a]s used in this section 'controlled game'
means any poker or Pai Gow game, and any other game played with cards or tiles, or both, and
approved by the Department of Justice"

1 (Bus. & Prof. Code, §§ 19801, subds. (h), (i), & (k), 19856, 19857, 19859, subd. (a), 19920,
2 19971, 19984, subd. (a); Pen. Code, §§ 337a, subd. (a)(3), 337j, subd. (a)(2); Cal. Code Regs., tit.
3 4, § 12568, subd. (c)(3) & (4).)

4 **SECOND CAUSE FOR DENIAL**

5 **(Failure to Remain on Premises as Key Employee)**

6 10. Respondent's Renewal Application is subject to denial because on August 10, 2016,
7 and again on August 30, 2017, Bureau staff visited the Casino and found no key employee on site
8 as required. Respondent appeared on site at the Casino only after Bureau staff inquired regarding
9 a key employee. Respondent's absence from the Casino violated California Code of Regulation,
10 title 11, section 2050, subdivision (a) (Section 2050), requiring "[a] gambling establishment [to]
11 have on the premises, at all times that the establishment is open to the public, an owner licensee
12 or a key employee who shall have the responsibility and authority to ensure immediate
13 compliance with the Act and these regulations." By leaving the premises and only returning after
14 Bureau staff inquired regarding a key employee, Respondent violated, and caused the Casino to
15 violate, Section 2050.

16 (Bus. & Prof. Code, §§ 19801, subds. (h), (i), & (k), 19856, 19857, 19859, subd. (a), 19920,
17 19922, 19971; Cal. Code Regs., tit. 4, § 12568, subd. (c)(3) & (4); Cal. Code Regs., tit. 11, §
18 2050.)

19 **THIRD CAUSE FOR DENIAL**

20 **(Violation of Minimum Internal Control Standards – Failure to Provide Requested Video
21 Surveillance Recordings)**

22 11. Respondent's Renewal Application is subject to denial, because in March 2018,
23 Bureau staff requested video surveillance recordings for the Casino from Respondent.
24 Respondent was initially unable to provide the requested video surveillance recordings. He later
25 provided Bureau staff surveillance recordings that were not responsive to the request. Responsive
26 surveillance recordings were never provided to the Bureau. This impeded and interfered the
27 Bureau and its employees in performing their duties.

1 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subd. (a), 19920, 19922, 19924, 19944; Cal. Code
2 Regs., tit. 4, §§ 12380, subds. (a) & (c), 12396, subd. (a).)

3 **FOURTH CAUSE FOR DENIAL**

4 **(Violation of Minimum Internal Control Standards – Use of Unauthorized Floor Bank)**

5 12. Respondent’s Renewal Application is subject to denial because in March 2018,
6 Bureau staff witnessed Respondent standing at a poker table speaking with a player who then
7 handed him cash. Respondent took the cash, walked to a counter within the Casino, placed the
8 cash in a drawer, and then retrieved two racks of poker chips from the same area. Respondent
9 then carried the chips to the poker table and placed them in front of the player that gave him the
10 cash. During this action, Respondent did not use keys to unlock any drawers before retrieving the
11 chips. This conduct violated California Code of Regulations, title 4, section 12387, subdivision
12 (a)(1), requiring that any floor bank must be stored in a “receptacle, drawer, or compartment with
13 a locking mechanism securing the contents. The receptacle, drawer or compartment shall remain
14 locked at all times, except when being accessed by assigned gambling enterprise employees in the
15 performance of their duties.”

16 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subd. (a), 19920; Cal. Code Regs., tit. 4, § 12387,
17 subd. (a).)

18 **FIFTH CAUSE FOR DENIAL**

19 **(Failure to Report Violations of Gambling Control Act)**

20 13. Respondent’s Renewal Application is subject to denial because he failed to report
21 multiple violations of the Act, the regulations adopted under the Act, and the Penal Code, as
22 required by California Code of Regulations, title 4, section 12395, subdivision (a)(3), and title 11,
23 section 2052, subdivision (c). Those violations include those alleged in paragraphs 9 through 12,
24 above, as well as the following violations in March 2018:

- 25 a. Another key employee left unattended chips on a counter/check-in area and was
26 using that area as a cashier cage in violation of California Code of Regulations, title 4,
27 sections 12386 and/or 12387;

1 b. The third-party provider of proposition player services (third-party) player who
2 was playing one of the Casino’s No Bust Blackjack games left the table for approximately
3 15 minutes on at least one occasion, but play continued with the dealer—i.e. a Casino
4 employee—taking over the third-party player duties and occupying the player-dealer
5 position. This violated Penal Code section 330 by making the game an illegal banked
6 game.


7 Respondent had a duty to report all of these violations. He reported none.
8 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subd. (a), 19920, 19944; Pen. Code, §§ 330,
9 330.11; Cal. Code Regs., tit. 4, § 12395, subd. (a)(3); Cal. Code Regs., tit. 11, § 2052, subd. (c).)

10 **PRAYER**

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

- 13 1. Denying the renewal application for Respondent Va Phong’s key employee license,
14 license number GEKE-001287; and
- 15 2. Taking such other and further action as the Commission may deem appropriate.

16
17 Dated: July 7, 2020

18 
19 STEPHANIE K. SHIMAZU, Director
20 Bureau of Gambling Control
21 California Department of Justice
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APPENDIX A
JURISDICTION

1. Business and Professions Code section 19805 provides, in part:

(d) “Chief” means the head of the entity within the department that is responsible for fulfilling the obligations imposed upon the department by this chapter.

* * *

(g) “Controlled game” means any controlled game, as defined by subdivision (e) of Section 337j of the Penal Code.

(h) “Department” means the Department of Justice.

* * *

(n) “Gambling enterprise employee” means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floor personnel, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

* * *

(x) “Key employee” means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the department for reasons consistent with the policies of this chapter.

(y) “Key employee license” means a state license authorizing the holder to be employed as a key employee.

2. Business and Professions Code section 19811 provides, in part:

(b) 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 operations of gambling establishments is vested in the commission.

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3. 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 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 or 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.

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5. Business and Professions Code section 19826 provides, in part:

The department^[3] . . . shall have all of the following responsibilities:

* * *

(c) To investigate suspected violations of this chapter or laws of this state relating to gambling

* * *

(e) To initiate, where appropriate, disciplinary actions as provided in this chapter. In connection with any disciplinary action, the department may seek restriction, limitation, suspension, or revocation of any license or approval, or the imposition of any fine upon any person licensed or approved.

6. Business and Professions Code section 19850 provides:

Every person who, either as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, deals, operates, carries on, conducts, maintains, or exposes for play any controlled game in this state, or who receives, directly or indirectly, any compensation or reward, or any percentage or share of the money 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.

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

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

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

8. Business and Professions Code section 19870 provides:

(a) The commission, after considering the recommendation of the chief^[4] and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to

³ “Department” refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)
⁴ “Chief” refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 the commission prior to the meeting, may either deny the application
2 or grant a license to an applicant who it determines to be qualified to
hold the license.

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

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

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

9 (e) A decision of the commission denying a license or approval,
10 or imposing any condition or restriction on the grant of a license or
11 approval may be reviewed by petition pursuant to Section 1085 of the
12 Code of Civil Procedure. Section 1094.5 of the Code of Civil
13 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.

14 9. Business and Professions Code section 19871 provides:

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

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

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

20 (A) To call and examine witnesses.

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

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

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

26 (E) To offer rebuttal evidence.

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

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(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's⁵ 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.

10. California Code of Regulations, title 4, section 12056 provides, in part:

(a) If the Commission elects to hold an evidentiary hearing, the hearing will be 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 under Section 12058 . . .

11. California Code of Regulations, title 4, section 12060 provides, in part:

(a) If the Executive Director determines it is appropriate, he or she may set an application for consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. 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 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 the Commission has elected to hold a GCA hearing, the Executive Director shall 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.

(c) The presiding officer shall have no communication with the Commission or Commission staff upon the merits, or upon information or documents related to the application prior to the evidentiary hearing. The Executive Director shall designate a presiding officer which shall be:

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

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

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(2) An Administrative Law Judge.

(d) 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.

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

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

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

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

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

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

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

(E) 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

1 sufficient in itself to support findings if it is the sort of evidence on which
2 reasonable persons are accustomed to rely in the conduct of serious affairs,
3 regardless of the existence of any common law or statutory rule that might
4 make improper the admission of that evidence over objection in a civil
5 action.

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

8 (1) Prohibit the testimony of any witness or the introduction of
9 any documentary evidence that has not been disclosed pursuant to subsection
10 (e); or

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

13 (h) The complainant shall present all facts and information in the
14 Bureau report, if any, and the results of the Bureau's background
15 investigation, and the basis for any recommendation, if the Bureau filed one
16 with the Commission according to Business and Professions Code section
17 19868, to enable the Commission to make an informed decision on whether
18 the applicant has met his, her, or its burden of proof. The complainant may
19 but is not required to recommend or seek any particular outcome during the
20 evidentiary hearing, unless it so chooses.

21 (i) The burden of proof is on the applicant at all times to prove his,
22 her, or its qualifications to receive any license or other approval under the
23 Act.

24 (j) The applicant may choose to represent himself, herself, or itself, or
25 may retain an attorney or lay representative.

26 (k) Except as otherwise provided in subsection (g), the complainant
27 and applicant shall have the right to call and examine witnesses under oath;
28 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.

(l) Oral evidence shall 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.

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

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SPECIFIC STATUTORY AND REGULATORY PROVISIONS

12. Business and Professions Code section 19801 provides, in part:

(h) Public trust and confidence can only be maintained by strict comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture and distribution of permissible gambling equipment.

(i) All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all manufacturers, sellers, and distributors of gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.

* * *

(k) Any license or permit issued, or other approval granted pursuant to this chapter, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder.

13. Business and Professions Code section 19856 provides:

(a) Any person who the commission determines is qualified to receive a state license, having due consideration for the proper protection of the health, safety, and general welfare of the residents of the State of California and the declared policy of this state, may be issued a license. 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.

(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.

14. Business and Professions Code section 19857 provides:

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

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

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

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

15. 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.

16. Business and Professions Code section 19920 provides:

It is the policy of the State of California to require that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. The responsibility for the employment and maintenance of suitable methods of operation rests with the owner licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable by the commission or by local government shall constitute grounds for license revocation or other disciplinary action.

17. Business and Professions Code section 19922 provides:

No owner licensee shall operate a gambling enterprise in violation of any provision of this chapter or any regulation adopted pursuant to this chapter.

18. Business and Professions Code section 19924 provides:

Each owner licensee shall maintain security controls over the gambling premises and all operations therein related to gambling, and those security controls are subject to the approval of the commission.

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19. Business and Professions Code, section 19944 provides:

Any person who willfully resists, prevents, impedes, or interferes with the department or the commission or any of their agents or employees in the performance of duties pursuant to this chapter is guilty of a misdemeanor, punishable by imprisonment in a county jail for not more than six months, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

20. Business and Professions Code section 19971 provides:

This act is an exercise of the police power of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes.

21. Business and Professions Code section 19984 provides, in part:

Notwithstanding any other law, a licensed gambling enterprise may contract with a third party for the purpose of providing proposition player services at a gambling establishment, subject to the following conditions:

(a) Any agreement, contract, or arrangement between a gambling enterprise and a third-party provider of proposition player services shall be approved in advance by the department, and in no event shall a gambling enterprise or the house have any interest, whether direct or indirect, in funds wagered, lost, or won.

22. Penal Code section 330 provides:

Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of those prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

23. Penal Code section 330.11 provides:

“Banking game” or “banked game” does not include a controlled game if the published rules of the game feature a player-dealer

1 position and provide that this position must be continuously and
2 systematically rotated amongst each of the participants during the play
3 of the game, ensure that the player-dealer is able to win or lose only a
4 fixed and limited wager during the play of the game, and preclude the
5 house, another entity, a player, or an observer from maintaining or
6 operating as a bank during the course of the game. For purposes of this
7 section it is not the intent of the Legislature to mandate acceptance of
8 the deal by every player if the division finds that the rules of the game
9 render the maintenance of or operation of a bank impossible by other
10 means. The house shall not occupy the player-dealer position.

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20 24. Penal Code section 337a provides, in part:

21 (a) Except as provided in Section 336.9, every person who
22 engages in one of the following offenses, shall be punished for a first
23 offense by imprisonment in a county jail for a period of not more than
24 one year or in the state prison, or by a fine not to exceed five thousand
25 dollars (\$5,000), or by both imprisonment and fine:

26 (3) Whether for gain, hire, reward, or gratuitously, or
27 otherwise, receives, holds, or forwards, or purports or pretends to
28 receive, hold, or forward, in any manner whatsoever, any money,
thing or consideration of value, or the equivalent or memorandum
thereof, staked, pledged, bet or wagered, or to be staked, pledged,
bet or wagered, or offered for the purpose of being staked,
pledged, bet or wagered, upon the result, or purported result, of
any trial, or purported trial, or contest, or purported contest, of
skill, speed or power of endurance of person or animal, or
between persons, animals, or mechanical apparatus, or upon the
result, or purported result, of any lot, chance, casualty, unknown
or contingent event whatsoever.

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30 25. Penal Code section 337j provides, in part:

31 (a) It is unlawful for any person, as owner, lessee, or employee,
32 whether for hire or not, either solely or in conjunction with others, to
33 do any of the following without having first procured and thereafter
34 maintained in effect all federal, state, and local licenses required by
35 law:

36 (2) To receive, directly or indirectly, any compensation or
37 reward or any percentage or share of the revenue, for keeping,
38 running, or carrying on any controlled game.

39 * * *

1 (e) (1) As used in this section, "controlled game" means any poker
2 or Pai Gow game, and any other game played with cards or tiles, or both, and
3 approved by the Department of Justice, and any game of chance, including
4 any gambling device, played for currency, check, credit, or any other thing of
5 value that is not prohibited and made unlawful by statute or local ordinance.

6 26. California Code of Regulations, title 4, section 12380 provides, in part:

7 (a) "Minimum Internal Control Standards," or "MICS," are the minimum
8 requirements to operate a gambling establishment as set forth in this chapter, and
9 include, but are not limited to, administration controls, and controls requirement
10 segregation of duties. A licensee must meet or exceed these requirements in
11 controlling their gambling operation.

12 * * *

13 (c) Failure by a licensee to comply with the requirements of this article
14 constitutes an unsuitable method of operation and is a ground for disciplinary action.

15 27. California Code of Regulations, title 4, section 12387 provides, in part:

16 (a) The policies and procedures for all tiers shall meet or exceed
17 the following standards for the security of floor banks:

18 (1) When kept, held, or stored in any public area of the
19 gambling establishment, a floor bank shall be secured in a
20 receptacle, drawer, or compartment with a locking mechanism
21 securing the contents. The receptacle, drawer, or compartment shall
22 remain locked at all times, except when being accessed by assigned
23 gambling enterprise employees in the performance of their duties. If
24 a keyed lock or locking mechanism is used, the key shall not be left
25 in the lock when the drawer or compartment is not being accessed.
26 All keys, combinations, and access codes shall be subject to the
27 applicable key security and control provisions of Section 12395.

28 (2) The lock or locking mechanism of each receptacle
containing a floor bank, shall be keyed differently from the lock or
locking mechanism of any other receptacle, drawer, or compartment
of any furnishing, fixture, cabinet, appurtenance, or device
(hereafter cabinet) in the gambling establishment, except in the
following circumstances:

(A) When a single assigned gambling enterprise
employee requires access to multiple receptacles in the
performance of his or her duties; that access is limited solely

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to that employee during his or her assigned shift; and each of the receptacles contains a floor bank, those receptacles may have a key, combination, or access code in common with each other.

(B) Managers and supervisors whose duties include the supervision or oversight of employees who utilize and have access to floor banks in the performance of their assigned duties, may have a master or duplicate key that will open some or all of the locking mechanisms for the receptacles containing a floor bank to which any of their subordinate employees have access.

(3) Any cabinet having a drawer, compartment, or receptacle containing or intended to contain a floor bank shall be located so that it is clearly visible for security and surveillance purposes. The cabinet shall be kept under continuous recorded video surveillance, in accordance with the applicable provisions of Section 12396. The camera coverage shall be adequate to enable monitoring and recording of the contents of any drawer when open, to the extent reasonably possible, and of all activities involving the floor bank. If a mobile cabinet is used, it shall be kept at a fixed secure location under continuous recorded video surveillance when not being actively used on the gambling floor.

(4) No gambling equipment, documents, supplies, or other materials that are not directly related to a floor bank shall be commingled with or kept in the same receptacle with a floor bank. Neither the cabinet nor any other drawer, compartment, or receptacle therein, shall be used to hold, store, keep, or safeguard any personal property or possession of any gambling enterprise employee, patron, or any other person, nor any equipment, documents, supplies, or other materials that are not directly related to the conduct of gambling operations.

(5) Each floor bank shall be individually balanced not less than daily and the imprest amount verified. Any shortages or overages shall be documented in an exception report and included in the appropriate cage bank reconciliation.

(6) The licensee shall establish a maximum imprest amount that may be assigned to each floor bank based on a reasonable estimate of the amount necessary for the activities associated with the bank during any shift. The maximum imprest amount that may be assigned to a floor bank in a mobile cabinet shall not exceed \$ 30,000 at any time.

1 (7) The licensee's policies and procedures shall include
2 specific provisions governing the sale or distribution of gambling
3 chips and the disbursement of cash to patrons from a floor bank by
4 the assigned gambling enterprise employee. The redemption of
5 chips by a patron from a floor bank shall not exceed a total of \$
6 500, except when that floor bank is being temporarily operated as a
7 cage and all applicable provisions of Section 12386 are complied
8 with. No chip redemptions may be transacted at any time from a
9 floor bank in a mobile cabinet.

10 * * *

11 (c) If a licensee provides to any third-party provider of
12 proposition player services (TPPPS) company or its employees access to
13 or the use of any cabinet, or any receptacle, drawer, or compartment in
14 any cabinet described in subsection (a) or (b), that access or use shall be
15 exclusive to that TPPPS company and its employees, and that cabinet
16 shall not be used by the licensee for any purpose.

17 28. California Code of Regulations, title 4, section 12395 provides, in part:

18 (a) The policies and procedures for all Tiers shall meet or exceed
19 the following standards for security:

20 (3) Licensees shall file an incident report with the
21 Bureau's Criminal Intelligence Unit within five business days of
22 either of the following:

23 (A) Any owner or key employee contacting a local
24 law enforcement agency, pursuant to the provisions of the
25 licensee's security plan, regarding any reasonably suspected
26 violation of the Act, this division, Division 3 of Title 11 of the
27 California Code of Regulations, any statute set forth in sections
28 330 through 337z of the Penal Code that pertains to gambling,
section 1916-3(b) of the Civil Code (loan-sharking), chapter 1
(commencing with section 11000) of division 10 of the Health
and Safety Code (illegal possession or distribution of
controlled substances), section 4022 of the Business &
Professions Code (illegal possession or distribution of
dangerous drugs), or any violation of the following Penal Code
sections: 186.10 (money laundering), 211 (robbery), 245
(assault with deadly weapon), 266h (pimping), 266i
(pandering), 459 (burglary), 470 (forgery), 476 (fraud), 487
(grand theft), 488 (petty theft), 503 (embezzlement), 518
(extortion), 641.3 (commercial bribery), 648 (counterfeit
currency), 653.22 (loiter for prostitution), 653.23 (pimping), or
647(b) (prostitution).

1 (B) Any owner or key employee obtaining
2 knowledge or notice of any reasonably suspected violation
3 listed in subparagraph (A).

4 29. California Code of Regulations, title 4, section 12396 provides, in part:

5 (a) The policies and procedures for all Tiers shall meet or exceed
6 the following standards for surveillance:

7 (1) Licensees shall install and maintain, on site in their
8 gambling establishment, a surveillance system, with video
9 recording and closed circuit television (CCTV) monitoring
10 capabilities, to record critical activities related to the licensees'
11 gambling operations. The surveillance system shall record with
12 reasonable coverage and clarity, at a minimum, the gambling
13 operation, the payment of player drop fees, the collection of drop
14 boxes, the drop count processes, cage and cashier activities,
15 gambling equipment storage areas, except for furniture storage
16 areas, and the interior of gambling establishment entrances and
17 exits. The video recording equipment shall include date and time
18 generators which shall display the current date and time of recorded
19 events on videotape or digital recordings. The displayed date and
20 time shall not significantly obstruct the view of recorded images.
21 The surveillance system may have remote, off-site access
22 capabilities, but only ancillary to any on-site systems required by
23 this section.

24 (2) All surveillance recordings shall be made in real time
25 mode, or at a speed sufficient to capture and record with reasonable
26 completeness the actions of all individuals being observed, except
27 that any recordings of the gambling establishment parking areas,
28 and the gambling establishment entrances and exits may be
recorded in time-lapse mode, at a minimum speed of 15 frames per
second.

(3) All video surveillance cameras shall be installed in a
manner that prevents them from being intentionally obstructed,
tampered with or disabled by patrons or employees, to the extent
reasonably possible. All recording and monitoring equipment shall
be located in secure rooms or areas of the gambling establishment
so that access is controlled.

(4) The surveillance system operation shall be checked
daily to ensure that all surveillance equipment is functioning
properly and reasonable efforts shall be made to repair
malfunctioning surveillance equipment within 72 hours of the
discovery of the malfunctions.

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2 (6) Videotapes or other recording media shall be marked
3 or coded to denote the activity recorded.

4 (7) (A) Unless otherwise requested by the Bureau, all
5 recordings shall be retained for a minimum of seven complete
6 days of operation, except that recordings that are determined by
7 the Bureau or a law enforcement agency to be of evidentiary
8 value shall be retained for a period specified in writing by the
9 determining agency. Recordings of any criminal offense
10 subject to reporting pursuant to paragraph (3) of subsection (a)
11 of Section 12395 shall be retained indefinitely, or until the
12 Bureau authorizes their disposal.

13 (B) Subsection (f) notwithstanding, the seven day
14 retention period specified in subparagraph (A) shall be
15 increased to 14 days no later than June 1, 2013.

16 (8) For the purpose of enforcing the provisions of the Act,
17 this division, or Division 3 of Title 11 of the California Code of
18 Regulations, Bureau staff, with the approval of the chief, may, at
19 any time during the gambling establishment's actual hours of
20 operation, demand immediate access to the surveillance room and
21 any area of the gambling establishment where surveillance
22 equipment is installed or maintained or where surveillance video
23 recordings are stored, and such access shall be provided by the
24 licensee or the licensee's authorized representative. The Bureau
25 may, pursuant to subparagraph (D) of paragraph (1) of subdivision
26 (a) of section 19827 of the Business and Professions Code, take
27 custody of and remove from the gambling establishment the
28 original of any video recording, or a copy of any digital recording,
required to be made and maintained pursuant to the Act or this
division. Any surveillance video recording that is in the custody of
the Bureau pursuant to this paragraph may be disclosed by the
Bureau only when necessary to administer or enforce the provisions
of the Act, this division, or Division 3 of Title 11 of the California
Code of Regulations or when necessary to comply with a court
order. Upon reasonable request of the licensee or the licensee's
authorized representative, a copy of the recordings shall be made
and left on the premises if copying equipment is available to enable
Bureau staff to make copies. If copying equipment is not available
to Bureau staff, upon reasonable request of the licensee or the
licensee's authorized representative, a copy of the recordings will be
provided to the licensee at the licensee's expense, unless the Bureau
expressly waives its costs of providing the copies.

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30. California Code of Regulations, title 4, section 12568, provides, in part:

(c) A state gambling license, finding of suitability, or approval granted by the Commission, other than a work permit, and an owner license for a gambling establishment if the owner licensee has committed a separate violation from any violations committed by the gambling establishment shall be subject to revocation by the Commission on any of the following grounds:

* * *

(3) If the Commission finds the holder no longer meets any criterion for eligibility, qualification, suitability or continued operation, including those set forth in Business and Professions code sections 19857, 19858, or 19880, as applicable, or

(4) If the Commission finds the holder currently meets any of the criteria for mandatory denial of an application set forth in Business and Professions Code sections 19859 or 19860.

31. California Code of Regulations, title 11, section 2050 provides, in part:

(a) A gambling establishment shall have on the premises, at all times that the establishment is open to the public, an owner licensee or a key employee who shall have the responsibility and authority to ensure immediate compliance with the Act and these regulations.

32. California Code of Regulations, title 11, section 2052 provides, in part:

(c) Within five days of any owner licensee or key employee obtaining knowledge or notice of any possible violation of the Act or these regulations, a written report shall be submitted to the Bureau, which details the nature of the violation, the identities of those persons involved in the violation, and describes what actions have been taken to address the violation.