



1 ROB BONTA
 Attorney General of California
 2 SARA J. DRAKE
 Senior Assistant Attorney General
 3 WILLIAM P. TORNGREN
 Supervising Deputy Attorney General
 4 PARAS H. MODHA
 Deputy Attorney General
 5 State Bar No. 215761
 1300 I Street, Suite 125
 6 P.O. Box 944255
 Sacramento, CA 94244-2550
 7 Telephone: (916) 210-7777
 Fax: (916) 327-2319
 8 E-mail: Paras.Modha@doj.ca.gov
Attorneys for Complainant

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

13
 14 In the Matter of the Statement of Reasons for
 Denial of Application for a Key Employee
 15 License for:
 16 **ROSANNE KIM TRAN**
 [Redacted]
 17
 18 **Respondent,**
 19
 20

CGCC Case No. CGCC-2021-0107-7
BGC Case No. BGC-HQ2021-00003SL

STATEMENT OF REASONS

21
 22 Complainant alleges as follows:

23 **PARTIES**

24 1. Yolanda Morrow (Complainant) brings this Statement of Reasons solely in her
 25 official capacity as Acting Director of the California Department of Justice, Bureau of Gambling
 26 Control (Bureau).
 27
 28

1 **CAUSE FOR DENIAL OF APPLICATION**

2 **(Disqualified – Failure to Clearly Establish Eligibility for Licensure)**

3 11. Respondent’s Application is subject to denial because she failed to clearly establish
4 her eligibility for licensure. Specifically, Respondent:

5 a. deposited amounts greater than her annual income into her bank account during
6 the years 2017 and 2018, and she is not able to specifically identify the source of those
7 funds;

8 b. gambled on numerous occasions, and she failed to keep an accounting of
9 gambling winnings and losses during the years 2017, 2018, and 2019;

10 c. failed to report certain gambling winnings on her initial tax return for the year
11 2017;

12 d. gambled with borrowed funds during the years 2017, 2017, and 2019; and

13 e. failed to make timely payments on her loans with five different institutional
14 lenders.

15 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subd. (a) [mandatory denial],
16 19866; Cal. Code. Regs., tit. 4, § 12040, subds. (a)(1) [mandatory denial], (a)(2) [mandatory
17 denial].)

18 **PRAYER**

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

- 21 1. Denying Respondent’s Application; and
22 2. Taking such other and further action as the Commission may deem appropriate.

23
24 Dated: April 26, 2021

25 **Yolanda Morrow** Digitally signed by Yolanda Morrow
Date: 2021.04.26 10:26:43 -07'00'

26 YOLANDA MORROW, Acting Director
27 Bureau of Gambling Control
28 California Department of Justice
Complainant

1 **APPENDIX A**

2 **Business and Professions Code**

3 1. Business and Professions Code section 19811, subdivision (b), provides:

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

8 2. Business and Professions Code, section 19823 provides:

9 (a) The responsibilities of the commission include, without
10 limitation, all of the following:

11 (1) Assuring that licenses, approvals, and permits are not
12 issued to, or held by, unqualified or disqualified persons, or by
13 persons are conducted in a manner that is inimical to the public
14 health, safety, or welfare.

15 (2) Assuring that there is no material involvement,
16 directly or indirectly, with a licensed gambling operation, or
17 the ownership or management thereof, by unqualified or
18 disqualified persons, or by persons whose operations are
19 conducted in a manner that is inimical to the public health,
20 safety, or welfare.

21 (b) For the purposes of this section, “unqualified person” means a
22 person who is found to be unqualified pursuant to the criteria set forth
23 in Section 19857, and “disqualified person” means a person who is
24 found to be disqualified pursuant to the criteria set forth in Section
25 19859.

26 3. Business and Professions Code, section 19824 provides, in part:

27 The commission shall have all powers necessary and proper to
28 enable it fully and effectually to carry out the policies and purposes of
this chapter,^[2] 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

² “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 (d) Take actions deemed to be reasonable to ensure that no
4 ineligible, unqualified, disqualified, or unsuitable persons are
associated with controlled gambling activities.

5 4. Business and Professions Code section 19854 provides:

* * *

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

8 5. Business and Professions Code section 19856 provides:

9 (a) Any person who the commission determines is qualified to
10 receive a state license, having due consideration for the proper
11 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
12 issued a license. The burden of proving her or his qualifications to
receive any license is on the applicant.

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

16 (c) In reviewing an application for any license, the commission
17 shall consider whether issuance of the license is inimical to public
18 health, safety, or welfare, and whether issuance of the license will
19 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.

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

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

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

24 (b) A person whose prior activities, criminal record, if any,
25 reputation, habits, and associations do not pose a threat to the public
26 interest of this state, or to the effective regulation and control of
27 controlled gambling, or create or enhance the dangers of unsuitable,
28 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.

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

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

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

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

11 8. Business and Professions Code, section 19866 provides:

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

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

18 (a) The commission, after considering the recommendation of the
19 chief³ and any other testimony and written comments as may be
20 presented at the meeting, or as may have been submitted in writing to
21 the commission prior to the meeting, may either deny the application
22 or grant a license to an applicant who it determines to be qualified to
23 hold the license.

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

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

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

(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

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

1 foregoing sentence, and the court may grant the petition only if the
2 court finds that the action of the commission was arbitrary and
 capricious, or that the action exceeded the commission's jurisdiction.

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

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

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

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

9 (A) To call and examine witnesses.

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

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

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

16 (E) To offer rebuttal evidence.

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

19 (4) The meeting need not be conducted according to
20 technical rules relating to evidence and witnesses. Any relevant
21 evidence may be considered, and is sufficient in itself to support a
22 finding, if it is the sort of evidence on which responsible persons
23 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.

24 (b) Nothing in this section confers upon an applicant a right to
25 discovery of the department's⁴ investigative reports or to require
26 disclosure of any document or information the disclosure of which is
 otherwise prohibited by any other provision of this chapter.

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

1 **California Code of Regulations, title 4**

2 11. California Code of Regulations, title 4, section 12040, provides, in
3 part:

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

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

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

10 12. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
11 part:

12 If the Commission elects to hold an evidentiary hearing, the
13 hearing will be conducted as a GCA hearing under Section 12060,
14 unless the Executive Director or the Commission determines the
hearing should be conducted as an APA hearing under Section
12058

15
16 13. California Code of Regulations, title 4, section 12060, provides:

17 (a) If the Executive Director determines it is appropriate, he or he
18 may set an application for consideration at a GCA hearing in advance
19 of a meeting pursuant to Section 12054. The Executive Director shall
20 give notice to the applicant, pursuant to paragraph (2) subsection (c) of
21 Section 12052, to the Office of the Attorney General, and to the
22 Bureau no later than 90 calendar days in advance of the GCA hearing.
23 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. The
Commission retains the authority to refer the matter to an APA
hearing pursuant to subsection (a) of Section 12056 or hear the matter
at a Section 12054 meeting if the Commission deems it appropriate.

24 (b) When the Commission has elected to hold a GCA hearing, the
25 Executive Director shall give notice to the applicant, pursuant to
26 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.

27 (c) The presiding officer shall have no communication with the
28 Commission or Commission staff upon the merits, or upon
information or documents related to the application prior to the

1 evidentiary hearing. The Executive Director shall designate a
2 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
8 future hearing dates. The Executive Director or Commission may
9 approve the request.

10 (e) The complainant shall provide to the applicant, at least 45
11 calendar days prior to the GCA hearing, and the applicant shall
12 provide to the complainant, at least 30 calendar days prior to the GCA
13 hearing, the following items.

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

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

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

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

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

25 (1) In advance of the GCA hearing, upon a motion of a party
26 or by order of the presiding officer, the presiding officer may
27 conduct a pre-hearing conference, either in person, via
28 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

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(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 sufficient in itself to support findings if it is the sort of evidence on which reasonable 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.

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

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

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

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

(i) The burden of proof is on the applicant at all times to prove her, his, 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 her, his 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.

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(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.