

1 XAVIER BECERRA
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 T. MICHELLE LAIRD
Supervising Deputy Attorney General
4 NOEL A. FISCHER
Deputy Attorney General
5 State Bar Number 232553
6 600 West Broadway, Suite 1800
P.O. Box 85266
7 San Diego, CA 92186-5266
Telephone: (619) 738-9133
8 Fax: (619) 645-2012
E-mail: Noel.Fischer@doj.ca.gov
Attorneys for Complainant



10 **BEFORE THE**
11
12 **CALIFORNIA GAMBLING CONTROL COMMISSION**
13
14 **STATE OF CALIFORNIA**

15 In the Matter of the Statement of Reasons for
Denial of Application for a Key Employee
16 License Re:

CGCC Case No. CGCC-2019-0516-6B

BGC Case No. BGC-HQ2019-00018SL

17 **DAVID C. JOCIS**
18 [REDACTED]

STATEMENT OF REASONS

19
20 **Respondent.**
21

22
23 Complainant alleges as follows:

24 **PARTIES**

25 1. Stephanie K. Shimazu submits this Statement of Reasons solely in her official
26 capacity as the Director of the California Department of Justice, Bureau of Gambling Control
27 (Bureau).
28

1 2. From January 2006 to May 2010, David C. Jocis (Respondent) was an owner and
2 president of Storm Lake, Inc., a third-party provider of proposition player services. Storm Lake,
3 Inc. was issued a registration (TPOW-000241) by the California Gambling Control Commission
4 (Commission) on December 14, 2006. Storm Lake, Inc. provided third-party proposition player
5 services at Lake Elsinore Hotel and Casino and at Village Club. This registration was made
6 inactive on December 6, 2010.

7 3. Respondent began his employment with Village Club, now known as Seven Mile
8 Casino, in 2010. From approximately July 2010 until on or about June 23, 2012, Respondent was
9 employed as a project manager at Village Club. His responsibilities included putting together a
10 financial plan to relocate the casino and to identify a property for the relocation.

11 4. On June 8, 2012, the Bureau issued a Letter of Warning regarding Respondent's
12 employment at Village Club as a result of investigation which revealed that Respondent was
13 acting in a supervisory role without a key employee license. Respondent was relocated to another
14 office at the new facility and ceased to work within the card room. Respondent has reported to
15 the Bureau that he continued to work as a consultant for Harvey Souza, the owner of Village Club
16 at the time, pursuant to an agreement dated February 20, 2010 during this time.

17 5. On or about January 31, 2013, Respondent submitted an Application for an Interim
18 Key Employee License. He listed his job title as project manager and his description of duties as
19 reorganizing employees, training, cage operation, and food organization. He was issued an
20 interim key employee license (GEKE-001844) on February 4, 2013.

21 6. Respondent submitted an Application for Gambling Establishment Key Employee
22 License on or about April 2, 2013.¹ On or about September 24, 2014, Respondent requested
23 withdrawal of the 2013 Application, stating that his duties did not warrant a key employee
24 license. The Commission approved this request without prejudice on November 6, 2014.
25 Respondent's interim key employee license (GEKE-001844) was cancelled as a result.

26
27 ¹ The April 2, 2013 Application for Gambling Establishment Key Employee License and
28 Supplemental Background Investigation Information will be collectively referred to as the "2013
Application."

1 7. Village Club changed its name to Seven Mile Casino in May 2015. Seven Mile
2 Casino named Respondent as an officer to the board of directors for VC Cardroom, Inc., a
3 position that requires an owner license. VC Cardroom Inc. was the corporation that controlled
4 Seven Mile Casino at the time. On or about August 4, 2015, Respondent submitted an
5 Application for State Gambling License as an officer or director of Seven Mile Casino.² On
6 January 13, 2017, Respondent requested withdrawal of his application as an officer or director of
7 VC Cardroom, Inc., stating that he had recently resigned that position. This withdrawal request is
8 still pending with the Bureau.

9 8. On January 4, 2017, Respondent was appointed to vice president of operations at
10 Seven Mile Casino, a key employee position. On January 18, 2017, Respondent submitted an
11 Application for Interim Key Employee License. On January 20, 2017, the Commission issued an
12 interim key employee license (GEKE-002286) to Respondent. This interim key employee license
13 allowed Respondent to be employed as a key employee by Seven Mile Casino. This interim key
14 employee license was scheduled to expire on January 31, 2019. The Bureau was unable to
15 complete Respondent's background investigation by this expiration date. As a result, an
16 additional interim key employee license was issued to Respondent (GEKE-002488) which was
17 scheduled to expire on January 31, 2021.

18 9. On March 7, 2017, Respondent submitted an Application for Gambling Establishment
19 Key Employee License.³ In April 2017, Respondent was appointed to vice president of food and
20 beverage as a result of a change in ownership of Seven Mile Casino.

21 10. On or about March 20, 2019, the Bureau issued its Gambling Establishment Key
22 Employee Initial Background Investigation Report for Respondent's 2017 Application. The
23 Bureau recommended denial of Respondent's 2017 Application.

25 ² Respondent's August 4, 2015 Application for State Gambling License as an officer or
26 directory of VC Cardroom, Inc. will be referred to as the "2015 Owner Application."

27 ³ The March 7, 2017 Application for Gambling Establishment Key Employee License and
28 the Supplemental Background Investigation Information will be collectively referred to as the
"2017 Application."

1 11. As a result of the Bureau's recommended denial of his 2017 Application,
2 Respondent's interim key employee license (GEKE-002488) was cancelled on March 27, 2019.

3 12. On or about May 16, 2019, the Commission referred the question of Respondent's
4 suitability for licensure to an evidentiary hearing to be held pursuant to Business and Professions
5 Code sections 19870 and 19871.⁴ (Cal. Code Regs., tit. 4, § 12060, subd. (a).)

6 13. Respondent submitted a Notice of Defense dated June 5, 2019.

7 **BURDEN OF PROOF**

8 14. Respondent has the burden of proving he is qualified to receive a key employee
9 license. (Bus. & Prof. Code, § 19856, subd. (a).)

10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(Unqualified for Licensure – Good Character, Honesty, and Integrity –
12 Derogatory Financial History)**

13 15. Respondent's 2017 Application is subject to mandatory denial pursuant to California
14 Code of Regulations, title 4, section 12355, subdivision (a)(1), and Business and Professions
15 Code section 19859, subdivisions (a) and (b), and/or discretionary denial pursuant to Business
16 and Professions Code sections 19856 and 19857, subdivisions (a) and (b). Respondent lacks the
17 requisite good character, honesty and integrity and/or poses a threat to the public interest of this
18 state, or to the effective regulation and control of controlled gambling, or creates or enhances the
19 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
20 controlled gambling because Respondent has a derogatory financial history as follows:

21 a. The Internal Revenue Service (IRS) filed a federal tax lien against Respondent
22 in San Diego County in the amount of \$40,942 on April 27, 2017. A Certificate of Release of
23 Federal Tax Lien was filed on July 14, 2017.

24 b. Respondent's company, Storm Lake, Inc., registered with the California
25 Secretary of State on January 26, 2006. This registration was suspended on May 13, 2010 as a

26 _____
27 ⁴ The statutes and regulations applicable to this Statement of Reasons are quoted in
28 pertinent part in Appendix A. The full text of the Gambling Control Act (GCA) is found at
Business and Professions Code section 19800 et seq.

1 result of the company's failure to file the Statement of Information. The company's registration
2 remains suspended. In addition, Storm Lake, Inc. did not file tax returns in either 2010 or 2011.
3 Four state tax liens were filed in the Riverside County Record's office by the California
4 Employment Development Department (EDD) in 2012 for unpaid payroll taxes. On July 1, 2012,
5 Storm Lake, Inc.'s registration was suspended by the Franchise Tax Board for its failure to file a
6 tax return in either 2010 or 2011. As of June 11, 2018, the estimated balance of the tax liens
7 resulting from unpaid payroll taxes was \$51,044.45. As of on or about November 6, 2018, Storm
8 Lake, Inc. had a zero account balance with the EDD.

9 c. Respondent was a shareholder and held a fifty-percent ownership interest in
10 D.S.M.J. Columbia Street Properties, LLC (D.S.M.J.), a real estate development company in San
11 Diego, from approximately April 2002 to July 2013. The Franchise Tax Board suspended
12 D.S.M.J.'s registration on July 1, 2014 for its failure to file tax returns. As a result of not filing
13 tax returns from 2010-2017, on October 18, 2018 the Franchise Tax Board issued a statement of
14 balance due totaling \$8,896.17, including fees, penalties, interest, and payments. On March 15,
15 2019, Respondent provided documentation that D.S.M.J.'s offer to compromise in the amount of
16 \$1,500 was accepted by the Franchise Tax Board.

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 **(Unqualified for Licensure – Good Character, Honesty, and Integrity –** 19 **Providing Untrue or Misleading Information)**

20 16. Complainant re-alleges each of the allegations set forth in Paragraphs 1 through 15
21 above and by this reference incorporates each allegation as if set forth in full.

22 17. Respondent's Application is subject to mandatory denial pursuant to Business and
23 Professions Code section 19859, subdivisions (a) and (b), and California Code of Regulations,
24 title 4, section 12355, subdivision (a)(1), and/or discretionary denial pursuant to Business and
25 Professions Code sections 19856, 19857 subdivisions (a) and (b), and 19866. Respondent lacks
26 the requisite good character, honesty and integrity and/or poses a threat to the public interest of
27 this state, or to the effective regulation and control of controlled gambling, or creates or enhances
28 the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of

1 controlled gambling because he failed to make a full and true disclosure of all information
2 necessary to carry out the policies of this state relating to licensing regulation and control of
3 gambling. Respondent failed to disclose information material to his qualification for licensure as
4 follows:

5 a. Respondent failed to disclose four state tax liens from the EDD against Storm
6 Lake, Inc. on his 2013 Application, 2015 Owner Application, and 2017 Application.

7 b. From 2009 to 2012, Respondent made loans totaling approximately \$731,000 to
8 Harvey and Bette Souza, the former owners of Village Club. Respondent made loans in the
9 amounts of \$171,000 on August 18, 2009 and \$150,000 on October 16, 2009. Respondent made
10 these loans during a time when his company, Storm Lake, Inc., had a third-party proposition
11 player service agreement with Village Club. The purpose of these loans was to aid the Souzas in
12 their efforts to find a new location for Village Club. These loans were not disclosed on
13 Respondent's 2013 Application or 2015 Owner Application.

14 c. Respondent has been a party to three civil litigation cases. Respondent has
15 failed to disclose the existence of some of these cases on previous applications. Respondent was
16 a defendant in *Ronnell Buckhannon v. South Bay Stone, Inc., et al.* (Sup. Ct. San Diego County,
17 2017, No. 37-2017-00012951-CU-OE-CTL)⁵ (hereafter *Buckhannon*) and in *Ronnie Stewart and*
18 *Caramaline Stewart v. Mary Elizabeth Adams and David Jocis* (Sup. Ct. San Diego County,
19 2010, No. 37-2010-00094925-CU-PA-CTL) (hereafter *Stewart*), and D.S.M.J. was a defendant in
20 *SB&O v. D.S.M.J. Columbia Street Properties, LLC et al.* (Sup. Ct. San Diego County, 2007, No.
21 37-2007-00067910-CL-BC-CTL) (hereafter *SB&O*).

22 Respondent did not disclose the *SB&O* litigation on his 2013 Application, 2015 Owner
23 Application, and 2017 Application. Respondent did not disclose *Stewart* on his 2015 Owner
24 Application and 2017 Application.

25 d. Respondent has been convicted of two misdemeanors. He was convicted of
26 driving under the influence and violating Vehicle Code section 23152, subdivision (a), on August
27 8, 2001 in the case of *People v. David Christopher Jocis* (Sup. Ct. San Diego County, 2001, No.

28 ⁵ This complaint was filed after the submission of Respondent's 2017 Application.

1 S158741). He was convicted of reckless driving under Vehicle Code section 23103, subdivision
2 (a), on January 11, 2005 in the case of *People v. David Christopher Jocis* (Sup. Ct. San Diego
3 Count, 2005, No. M938734). Respondent did not disclose the 2005 reckless driving conviction
4 on his 2013 Application.

5 e. Respondent did not disclose his business ownership interest in D.S.M.J. on
6 either his 2013 Application or 2015 Owner Application.


7 f. Respondent was a shareholder and part-owner of Bankers Hill 1 LLC, a
8 condominium development company in San Diego, California, from approximately August 2013
9 until March 2018. Respondent did not disclose this business ownership interest on his 2015
10 Owner Application.

11 **PRAYER**

12 WHEREFORE, Bureau Director Shimazu requests that following the hearing to be held on
13 the matters herein alleged, the Commission issue a decision:

- 14 1. Denying Respondent's Key Employee Application, and
15 2. Taking such other and further action as the Commission may deem appropriate.

16
17
18 Dated: October 4, 2019

19 
20 STEPHANIE K. SHIMAZU, DIRECTOR
21 Bureau of Gambling Control
22 California Department of Justice
23
24
25
26
27
28

1 enterprise whether or not the commission takes action against the
2 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
6 associated with controlled gambling activities.

7 4. Business and Professions Code, section 19853, subdivision (a), provides:

8 The commission, by regulation or order, may require that the
9 following persons register with the commission, apply for a finding of
10 suitability as defined in subdivision (i) of 19805, or apply for a
11 gambling license:

12 * * *

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

15 5. Business and Professions Code, section 19870 provides:

16 (a) The commission, after considering the recommendation of
17 the chief⁷ and any other testimony and written comments as may be
18 presented at the meeting, or as may have been submitted in writing to
19 the commission prior to the meeting, may either deny the application
20 or grant a license to an applicant who it determines to be qualified to
21 hold the license.

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

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

28 (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 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.

⁷ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. Business and Professions Code, section 19871 provides:

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

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

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

(A) To call and examine witnesses.

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

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

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

(E) To offer rebuttal evidence.

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

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

(b) Nothing in this section confers upon an applicant a right to discovery of the department's⁸ 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.

7. California Code of Regulations, title 4, section 12054, subdivision (a)(2) provides:

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

* * *

⁸ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

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

9. California Code of Regulations, title 4, section 12060, subdivision (b) provides:

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.

10. California Code of Regulations, title 4, section 12354, subdivision (a)(1) provides:

(a) An individual, if holding a valid work permit for any gambling enterprise, may immediately begin to work as an interim key employee provided that the individual submit the following to the Bureau within 10 days of hiring:

(1) An Application for Interim Key Employee License, BGC-035 (Rev. 07/17), which is attached in Appendix A to this chapter.

11. California Code of Regulations, title 4, section 12354, subdivision (c)(1) provides:

(c) Interim key employee license approvals are subject to the following conditions:

(1) An application package for an initial portable personal key employee license as required in subsection (c) of Section 12350 must be submitted to the Bureau within 30 days of assuming a key employee position.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12. California Code of Regulations, title 4, section 12355, subdivision (a)(1), provides:

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

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

1 **SPECIFIC STATUTORY PROVISIONS**

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

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

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

7 14. Business and Professions Code, section 19855 provides:

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

15 15. Business and Professions Code, section 19856 provides:

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

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

25 (c) In reviewing an application for any license, the commission
26 shall consider whether issuance of the license is inimical to public
27 health, safety, or welfare, and whether issuance of the license will
28 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.

16. 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:

(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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

17. 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.

18. 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.