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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 Gambling
15 Establishment Key Employee License for:

16 **CARMELITA ALBIANI**
17 [REDACTED]

18
19 **Respondent.**
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BGC Case No. BGC-HQ2021-00014SL

CGCC Case No: CGCC-2021-0408-5

STATEMENT OF REASONS

Hearing Date: August 25, 2021
Hearing Time: 10:00 a.m.
Hearing Place: 2399 Gateway Oaks, Ste. 100,
Sacramento, CA 95833

**This hearing will be conducted by means of
video conferencing on Zoom. The Zoom
meeting code is 285 757 8614**

23
24 Complainant alleges as follows:

25 **PARTIES**

26 1. Nathan DaValle (Complainant) brings this Statement of Reasons solely in his official
27 capacity as Acting Director of the California Department of Justice, Bureau of Gambling Control
28 (Bureau).

1 2. Carmelita Albiani (Respondent) is an applicant for a Gambling Establishment Key
2 Employee License.

3 **THE APPLICATION AND THIS PROCEEDING**

4 3. On or about September 15, 2019, Respondent assumed key employee duties at the
5 Limelight Card Room. On or about September 19, 2019, Respondent filed an Application for
6 Interim Key Employee License. On October 31, 2019, Respondent was issued interim key
7 employee license GEKE-002569, valid through October 31, 2021.

8 4. On December 23, 2019, the Bureau received an initial application for a Gambling
9 Establishment Key Employee License for Respondent (Application) for the Limelight Card
10 Room. The Application included a Key Employee Supplemental Background Investigation
11 Information (BGC-APP. 016A (Rev. 10/17)), but did not include the second page of the
12 Application. The Bureau notified Respondent of this, and received the second page of the
13 Application on January 24, 2020. On January 30, 2020, the Bureau notified Respondent that the
14 Application was then complete and was deemed filed as of that date.

15 5. The Bureau conducted an initial background investigation with respect to
16 Respondent's Application. The investigation included several requests for additional information
17 from Respondent. On June 30, 2020, the Bureau provided Respondent with notice that the
18 investigation was estimated to require an additional 180 days to complete. On January 5, 2021,
19 the Bureau issued a Gambling Establishment Key Employee Initial Background Investigation
20 Report Level III (Report). The Report recommended denial of the Application.

21 6. On January 5, 2021, then Assistant Director Yolanda Morrow and Manager II Frances
22 Asuncion met by telephone with Respondent and informed her generally of the basis for the
23 Bureau's recommendation to deny her Application.

24 7. On March 26, 2021, the California Gambling Control Commission (Commission)
25 notified Respondent that her Application would be considered at its April 8, 2021 meeting. At its
26 April 8, 2021 meeting, the Commission considered the Application and voted to refer the matter
27 of Respondent's Application to an evidentiary hearing pursuant to California Code of
28 Regulations, title 4, section 12054, subdivision (a)(2), to be conducted as a hearing under the

1 Gambling Control Act, Government Code section 19800 et seq. (GCA), pursuant to California
2 Code of Regulations, title 4, section 12060.¹ On April 9, 2021, the Commission notified
3 Respondent of its action upon the Application and provided Respondent with a Notice of Defense
4 form (CGCC-CH1-03).

5 8. On April 27, 2021, the Bureau received Respondent's Notice of Defense dated April
6 26, 2021, which indicated that Respondent was not at that time represented by an attorney.

7 9. On June 14, 2021, Respondent was notified that the evidentiary hearing would be
8 held before the Commission starting at 10:00 a.m., on August 25, 2021, and that the meeting
9 would be conducted via Zoom.

10 **BURDEN OF PROOF**

11 10. Respondent has the burden of proving that she is qualified to receive a license. (Bus.
12 & Prof. Code, § 19856, subd. (a).)

13 **FIRST CAUSE FOR DENIAL**

14 **(Unsuitable for Licensure)**

15 11. Respondent's Application is subject to mandatory or discretionary denial on the
16 ground that the Respondent is unsuitable for licensure because she has engaged in online sports
17 betting through Bovada.com, an online gambling website. Online sports betting is unlawful in
18 California under Penal Code section 337a, subdivision (a)(6).
19 (Bus. & Prof. Code, §§ 19856, 19857 [discretionary denial], 19859, subd. (a) [mandatory denial];
20 Cal. Code Regs., tit. 4, § 12355, subds. (a)(1) [mandatory denial] & (b)(2) [discretionary denial].)

21 **SECOND CAUSE FOR DENIAL**

22 **(Unsuitable for Licensure)**

23 12. Respondent's Application is subject to discretionary or mandatory denial on the
24 ground that Respondent is unsuitable for licensure because she failed to provide documentation
25 requested by the Bureau. On November 20, 2020, the Bureau requested information concerning
26

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


1 Respondent's indebtedness to the Internal Revenue Service and to Kaiser Permanente (assigned
2 to USCB America for collection). Respondent failed to provide the requested information.
3 (Bus. & Prof. Code, §§ 19856, 19857 [discretionary denial], 19859, subs. (a) & (b) [mandatory
4 denial]; Cal. Code Regs., tit. 4, § 12355, subd. (a)(1) [mandatory denial].)

5 PRAYER

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

- 8 1. Denying Respondent's Application for licensure as a key employee; and
9 2. Taking such other and further action as the Commission may deem appropriate.

10
11 Dated: July 7, 2021



NATHAN DAVALLE, Acting Director
Bureau of Gambling Control
California Department of Justice
Complainant

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APPENDIX A

Business and Professions Code

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

(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 . . . cashier operations supervisors . . . or any other natural person designated as a key employee by the department for reasons consistent with the policies of this chapter.

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

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

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 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

1 this chapter,^[2] including, without limitation, the power to do all of the
2 following:

3 * * *

4 (b) For any cause deemed reasonable by the commission, deny
5 any application for a license, permit, or approval provided for in this
6 chapter or regulations adopted pursuant to this chapter, limit,
7 condition, or restrict any license, permit, or approval, or impose any
8 fine upon any person licensed or approved. The commission may
9 condition, restrict, discipline, or take action against the license of an
10 individual owner endorsed on the license certificate of the gambling
11 enterprise whether or not the commission takes action against the
12 license of the gambling enterprise.

13 * * *

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

17 5. Business and Professions Code section 19850 provides, in part:

18 Every person who, either as owner, lessee, or employee, whether
19 for hire or not, either solely or in conjunction with others, deals,
20 operates, carries on, conducts, maintains, or exposes for play any
21 controlled game in this state, or who receives directly or indirectly,
22 any compensation or reward, or any percentage or share of the money
23 or property played, for keeping, running, or carrying on any controlled
24 game in this state, shall apply for and obtain from the commission, and
25 shall thereafter maintain, a valid state gambling license, key employee
26 license, or work permit, as specified in this chapter.

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

28 (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.

7. Business and Professions Code section 19856 provides, in part:

(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.

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

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

3 (c) In reviewing an application for any license, the
4 commission shall consider whether issuance of the license is inimical
5 to public health, safety, or welfare, and whether issuance of the
6 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.

7 8. Business and Professions Code, section 19857 provides:

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

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

11 (b) A person whose prior activities, criminal record, if any,
12 reputation, habits, and associations do not pose a threat to the public
13 interest of this state, or to the effective regulation and control of
14 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.

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

17 9. Business and Professions Code section 19859 provides, in part:

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

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

21 (b) Failure of the applicant to provide information,
22 documentation, and assurances required by this chapter or requested
23 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.

24
25 10. Business and Professions Code section 19866 provides:

26 An applicant for licensing or for any approval or consent
27 required by this chapter, shall make full and true disclosure of all
28 information to the department and the commission as necessary to

1 carry out the policies of this state relating to licensing, registration,
2 and control of gambling.

3 11. Business and Professions Code, section 19870 provides:

4 (a) The commission, after considering the recommendation of
5 the chief³ and any other testimony and written comments as may be
6 presented at the meeting, or as may have been submitted in writing to
7 the commission prior to the meeting, may either deny the application
8 or grant a license to an applicant who it determines to be qualified to
9 hold the license.

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

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

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

19 (e) A decision of the commission denying a license or approval,
20 or imposing any condition or restriction on the grant of a license or
21 approval may be reviewed by petition pursuant to Section 1085 of the
22 Code of Civil Procedure. Section 1094.5 of the Code of Civil
23 Procedure shall not apply to any judicial proceeding described in the
24 foregoing sentence, and the court may grant the petition only if the
25 court finds that the action of the commission was arbitrary and
26 capricious, or that the action exceeded the commission's jurisdiction.

27 12. Business and Professions Code, section 19871 provides:

28 (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.

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

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(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's⁴ 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.

California Code of Regulations, Title 4

13. California Code of Regulations, title 4, section 12054, subdivision (a) provides, in part:

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

* * *

(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.

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

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

3 If the Commission elects to hold an evidentiary hearing, the
4 hearing will be conducted as a GCA hearing under Section 12060,
5 unless the Executive Director or the Commission determines the
6 hearing should be conducted as an APA hearing under Section
7 12058

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

9 (a) If the Executive Director determines it is appropriate, he or
10 she may set an application for consideration at a GCA hearing in
11 advance of a meeting pursuant to Section 12054. The Executive
12 Director shall give notice to the applicant, pursuant to paragraph (2)
13 subsection (c) of Section 12052, to the Office of the Attorney General,
14 and to the Bureau no later than 90 calendar days in advance of the
15 GCA hearing. The Executive Director's determination will be based on
16 information contained in the Bureau's report or other appropriate
17 sources including, without limitation, a request from the Bureau or
18 applicant as well as the Commission's operational considerations. The
19 Commission retains the authority to refer the matter to an APA
20 hearing pursuant to subsection (a) of Section 12056 or hear the matter
21 at a Section 12054 meeting if the Commission deems it appropriate.

22 (b) When the Commission has elected to hold a GCA hearing,
23 the Executive Director shall give notice to the applicant, pursuant to
24 paragraph (2) subsection (c) of Section 12052, to the Office of the
25 Attorney General, and to the Bureau no later than 60 calendar days in
26 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
evidentiary hearing. The Executive Director shall designate a
presiding officer which shall be:

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

(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;

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

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

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

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

10 (1) In advance of the GCA hearing, upon a motion of a
11 party or by order of the presiding officer, the presiding officer
12 may conduct a pre-hearing conference, either in person, via
13 teleconference, or by email exchange, subject to the presiding
14 officer's availability and shall issue a pre-hearing order if
15 appropriate or requested by either party. The pre-hearing
16 conference and order may address the following:

17 (A) Evidentiary issues;

18 (B) Witness and exhibit lists;

19 (C) Alterations in the Bureau recommendation;

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

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

24 (2) The GCA hearing need not be conducted according to
25 technical rules of evidence. Any relevant evidence may be
26 considered, and is sufficient in itself to support findings if it is
27 the sort of evidence on which reasonable persons are accustomed
28 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

1 filed one with the Commission according to Business and Professions
2 Code section 19868, to enable the Commission to make an informed
3 decision on whether the applicant has met his, her, or its burden of
4 proof. The complainant may but is not required to recommend or seek
5 any particular outcome during the evidentiary hearing, unless it so
6 chooses.

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

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

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

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

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

16. California Code of Regulations, title 4, section 12354 provides, in part:

(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)

* * *

(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.

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17. California Code of Regulations, title 4, section 12355 provides, in part:

(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.

* * *

(b) An application for a key employee license may be denied if:

* * *

(2) The Commission finds that the applicant's past behavior calls into question the applicant's qualification requirements and considerations outlined in Business and Professions Code section 19856.

1 ROB BONTA
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2 SARA J. DRAKE
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3 T. MICHELLE LAIRD
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8 *Attorneys for Complainant*

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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 a Gambling
Establishment Key Employee License for:

CARMELITA ALBIANI
5601 W. 6th Street
Rio Linda, CA 95673

BGC Case No. BGC-HQ2021-00014SL
CGCC Case No: CGCC-2021-0408-5

STATEMENT TO RESPONDENT

Respondent.

Hearing Date: August 25, 2021
Hearing Time: 10:00 a.m.
Hearing Place: 2399 Gateway Oaks, Ste. 100,
Sacramento, CA 95833

**This hearing will be conducted by means of
video conferencing on Zoom. The Zoom
meeting code is 285 757 8614**

**TO RESPONDENT CARMELITA ALBIANI, AND YOUR ATTORNEY OR
REPRESENTATIVE:**

Enclosed is a copy of the Statement of Reasons regarding your application for a key
employee license that has been filed with the California Gambling Control Commission
(Commission) and which is hereby served on you.

1 Also, enclosed are copies of Business and Professions Code sections 19870 and 19871, as
2 well as a copy of California Code of Regulations, title 4, section 12060.

3 Please be advised that you may, but need not, be represented by counsel or representative of
4 your choice at your expense at any or all stages of these proceedings.

5 **SCHEDULED HEARING**

6 The Commission mailed to you at the above-noted address, which is your current address of
7 record, a Notice of Hearing and Prehearing Conference. That notice advised you of the date, time
8 and place of the hearing and the prehearing conference scheduled for this matter. Please notify
9 the Commission, the Bureau of Gambling Control and the under-signed deputy attorney general
10 should your address change.

11 **CONTINUANCE**

12 Once scheduled, the hearing for this matter may be postponed by the Commission for good
13 cause. If you have good cause, you are obliged to notify the Commission and the under-signed
14 deputy attorney general immediately upon your discovery of the good cause. Failure to promptly
15 give such notice may deprive you of a postponement.

16
17 Dated: July 7, 2021

18 ROB BONTA
19 Attorney General of the State of California
20 SARA J. DRAKE
21 Senior Assistant Attorney General
22 T. MICHELLE LAIRD
23 Supervising Deputy Attorney General

24 *Neil D. Houston*

25 NEIL D. HOUSTON
26 Deputy Attorney General
27 *Attorneys for Complainant*
28

**COPY OF BUSINESS AND PROFESSIONS CODE SECTIONS 19870 AND 19871
PROVIDED PURSUANT TO BUSINESS AND PROFESSIONS
CODE, DIVISION 8, CHAPTER 5**

ARTICLE 4. LICENSING

**19870. COMMISSION AUTHORITY TO DENY OR GRANT LICENSE; RESTRICTIONS;
STATEMENT OF REASONS; PETITION**

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

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

(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 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.

19871. COMMISSION MEETING; CONDUCT

(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's 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.

CALIFORNIA CODE OF REGULATIONS
TITLE 4. BUSINESS REGULATIONS.

DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

§ 12060. GCA HEARINGS.

(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 will give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 60 calendar days in advance of the GCA hearing.

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

- (1) A member of the Commission's legal staff; or,
- (2) An Administrative Law Judge.

(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 will provide to the applicant, subject to subsection (b) of Section 12056, at least 45 calendar days prior to the GCA hearing, and the applicant must 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 statement of parties and witnesses, if available; and
- (4) All other written comments or writing containing relevant evidence.

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(f) A presiding officer will 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 will 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) Stipulations for undisputed facts and/or the admission of evidence including without limitation the Bureau's report;

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

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

(2) The GCA hearing need not be conducted according to technical rules of evidence. Any relevant evidence may be considered, and is sufficient in itself to support finding 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.

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(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 his, her, 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 always on the applicant to prove his, her, 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. Lay representatives may assist the applicant but are not authorized to serve as an attorney as otherwise defined and regulated by state law.

(k) Except as otherwise provided in subsection (g), the complainant and applicant will 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 his, her or its behalf, the applicant may be called and examined, under oath, as if under cross-examination.

(l) Oral evidence will 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 will 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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9
10 **BEFORE THE**
11 **CALIFORNIA GAMBLING CONTROL COMMISSION**
12 **STATE OF CALIFORNIA**

14 In the Matter of the Statement of Reasons for
Denial of Application for a Gambling
15 Establishment Key Employee License for:

16 **CARMELITA ALBIANI**

17 

18
19 **Respondent.**

BGC Case No. BGC-HQ2021-00014SL

CGCC Case No: CGCC-2021-0408-5

**CERTIFICATE OF SERVICE BY
CERTIFIED MAIL SERVICE**

20
21
22 I, Linda Thorpe, declare:

23 I am employed in the County of Sacramento, California. I am 18 years of age or older and
24 not a party to the within entitled cause; my business address is 1300 I Street, P.O. Box 944255,
25 Sacramento, California, 94244-2550.
26
27
28

1 On July 7, 2021, I served the attached:

2 **STATEMENT TO RESPONDENT; STATEMENT OF REASONS;**
3 **CALIFORNIA CODE OF REGULATIONS, TITLE 4, SECTION**
4 **12060; BUSINESS AND PROFESSIONS CODE SECTIONS 19870**
5 **AND 19871**

6 XX (BY CERTIFIED MAIL) I caused each such envelope, with postage
7 thereon fully prepaid, to be placed in the United States mail at Sacramento,
8 California. I am readily familiar with the practice of the Office of the Attorney
9 General for collection and processing of correspondence for mailing, said
10 practice being that in the ordinary course of business, mail is deposited in the
11 United States Postal Service the same day as it is placed for collection.

12 Carmelita Albiani
13 [REDACTED]

Certified Article Number

7414 7266 9904 2159 9005 64

SENDER'S RECORD

14 XX (BY U.S. REGULAR MAIL) I caused each such envelope, with postage
15 thereon fully prepaid, to be placed in the United States mail at Sacramento,
16 California. I am readily familiar with the practice of the Office of the Attorney
17 General for collection and processing of correspondence for mailing, said
18 practice being that in the ordinary course of business, mail is deposited in the
19 United States Postal Service the same day as it is placed for collection.

20 John Mikacich, Designated Agent and Owner
21 [REDACTED]

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct and that this declaration was executed on July 7, 2021, at
24 Sacramento, California.

25
26 Linda Thorpe
Declarant

Rinda Hoyle
Signature