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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 Applications for a Card Room Owner  
 15 License for:

CGCC Case No: CGCC-2020-0827-5B

BGC Case No. BGC-HQ2020-00027SL

16 **ROBERT RUSSELL HARRIS, JR.**

17 [Redacted Name]

**STATEMENT OF REASONS**

18 **Respondent.**

Hearing Date: May 7, 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.**

19  
 20  
 21  
 22 Complainant alleges as follows:

23 **PARTIES**

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

1 2. Robert Russell Harris, Jr. (Respondent) is an applicant for a State Gambling License.

2 **THE APPLICATION AND THIS PROCEEDING**

3 3. On August 31, 2015, the Bureau received an initial Application for State Gambling  
4 License for Respondent (Application) as successor trustee and contingent beneficiary of the  
5 Commerce Club Trust dated March 6, 1997 (Commerce Trust). Since 2009, the Commerce Trust  
6 has been licensed as a shareholder, holding 20 shares (a 1.37 percent interest) in California  
7 Commerce Club, Inc., doing business as the Commerce Casino. Cheryl Harris, Respondent’s  
8 mother, is licensed as the Commerce Trust’s trustor, trustee, and beneficiary.

9 4. According to the Commerce Trust’s terms, Respondent will receive one-half of the  
10 trust’s assets upon Cheryl Harris’s death. Respondent therefore anticipates that he will receive 10  
11 shares representing a 0.68 percent ownership interest in the Commerce Casino. At the time of the  
12 Application, Respondent had a prospective interest therein. The Bureau is informed and believes  
13 that as of the date of this Statement of Reasons, Respondent continues to have that prospective  
14 interest.

15 5. The Commerce Trust also holds a 1.44143 percent membership interest in Acme  
16 Player Services, LLC (Acme), a third-party provider of proposition player services. Respondent  
17 has not submitted any application to the Bureau with respect to his prospective ownership interest  
18 in Acme.

19 6. On January 21, 2020, the Bureau issued an Initial Background Investigation Report,  
20 Level III (Report) with respect to Respondent’s Application. The Report recommended denial of  
21 the Application.

22 7. At its August 27, 2020 meeting, the California Gambling Control Commission  
23 (Commission) referred the matter of Respondent’s Application to an evidentiary hearing pursuant  
24 to California Code of Regulations, title 4, section 12054, subdivision (a)(2), to be conducted as a  
25 Gambling Control Act (GCA) hearing under California Code of Regulations, title 4, section  
26 12060.<sup>1</sup>

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

1           8. On or about September 24, 2020, Respondent submitted a signed Notice of Defense.

2                           **RELATED APPLICATIONS NOT SUBJECT TO THIS PROCEEDING**

3           9. On November 10, 2015, the Bureau received an application for the Harris Family  
4 Trust dated January 27, 2008 (Harris Trust). On September 14, 2015, the Bureau received an  
5 application for Respondent’s wife, Jennifer Kelly Harris, as trustee, trustor, and beneficiary of the  
6 Harris Trust. On September 11, 2018, the Bureau received an application for Respondent as  
7 trustee, trustor, and beneficiary of the Harris Trust. These applications were submitted in  
8 anticipation of, and to permit, the future transfer of 10 shares from the Commerce Trust to the  
9 Harris Trust. On January 31, 2020, the Bureau issued an Initial Background Investigation Report,  
10 Level III, with respect to the applications of: 1) The Harris Family Trust; 2) Robert Russell  
11 Harris, Jr., as Trustee, Trustor, and Beneficiary of the Harris Family Trust; and 3) Jennifer Kelly  
12 Harris, as Trustee, Trustor, and Beneficiary of the Harris Family Trust (Report 2). Report 2  
13 recommended denial of these applications.

14           10. On August 27, 2020, when the Commission referred the matter of Respondent’s  
15 Application to an evidentiary hearing as described in paragraph 7, above, the Commission made  
16 no referral and took no other action with regard to the related applications identified in paragraph  
17 9, above.

18                           **BURDEN OF PROOF**

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

21                           **FIRST CAUSE FOR DENIAL**

22                           **(Disqualification – Conviction of a Felony)**

23           12. Respondent is disqualified from licensure, and his Application is subject to  
24 mandatory denial. On December 3, 1987, Respondent was convicted of violating Health and  
25 Safety Code section 11351 (possession of cocaine, with intent to distribute), a felony, in the case  
26 of *People v. Robert Russell Harris* (Orange County Mun. Ct., Cen. Jud. Dist., Case No. C-  
27 66312).

28

1 13. Respondent subsequently sought, and on June 24, 2016 was granted, relief under  
2 Penal Code section 1203.4. Respondent's felony conviction was at no time reduced to a  
3 misdemeanor. Respondent then petitioned for a Certificate of Rehabilitation and Pardon.  
4 Respondent was granted a Certificate of Rehabilitation on June 22, 2018, and was granted a  
5 Governor's Pardon on December 24, 2018. Post-conviction relief provided by Penal Code  
6 section 1203.4, a Certificate of Rehabilitation, and a Governor's Pardon do not apply to the ban  
7 on the licensure of felons found in Business and Professions Code section 19859, subdivisions (a)  
8 and (c)(1).(Bus. & Prof. Code, §§ 19823, 19856, 19857, 19859, subd. (c)(1) [mandatory denial];  
9 Cal. Code Regs., tit. 4, § 12346, subd. (a)(1) [mandatory denial].)

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 Respondent's Application for licensure as a card room owner; and
- 14 2. Taking such other and further action as the Commission may deem appropriate.

15  
16 Dated: March 22, 2021

Stephanie Shimazu Digitally signed by Stephanie Shimazu  
Date: 2021.03.22 17:03:00 -07'00'

STEPHANIE K. SHIMAZU, Director  
Bureau of Gambling Control  
California Department of Justice  
Complainant

1 APPENDIX A

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

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

- 7 2. Business and Professions Code, section 19823 provides:

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

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

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

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

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

26 The commission shall have all powers necessary and proper to  
27 enable it fully and effectually to carry out the policies and purposes of  
28 this chapter,<sup>[2]</sup> including, without limitation, the power to do all of the  
following:

\*\*\*

29 (b) For any cause deemed reasonable by the commission, deny  
30 any application for a license, permit, or approval provided for in this  
31 chapter or regulations adopted pursuant to this chapter, limit,  
32 condition, or restrict any license, permit, or approval, or impose any  
33 fine upon any person licensed or approved. The commission may  
34 condition, restrict, discipline, or take action against the license of an  
35 individual owner endorsed on the license certificate of the gambling

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

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 19850 provides, in part:

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

17 5. Business and Professions Code, section 19851 provides:

18 (a) The owner of a gambling enterprise shall apply for and  
19 obtain a state gambling license. The owner of a gambling enterprise  
20 shall be known as the owner-licensee.

21 (b) Other persons who also obtain a state gambling license, as  
22 required by this chapter, shall not receive a separate license certificate,  
23 but the license of every such person shall be endorsed on the license  
24 certificate that is issued to the owner of the gambling enterprise.

25 6. Business and Professions Code, section 19852 provides, in part:

26 Except as provided in Section 19852.2, an owner of a gambling  
27 enterprise that is not a natural person shall not be eligible for a state  
28 gambling license unless each of the following persons individually  
applies for and obtains a state gambling license:

(a) If the owner is a corporation, then each officer, director,  
and shareholder other than a holding or intermediary company of the  
owner. The foregoing does not apply to an owner that is either a  
publicly traded racing association or a qualified racing association.

\* \* \*

1 (e) If the owner is a trust, then the trustee and, in the discretion  
2 of the commission, any beneficiary and the trustor of the trust.

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

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

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

12 (c) In reviewing an application for any license, the  
13 commission shall consider whether issuance of the license is inimical  
14 to public health, safety, or welfare, and whether issuance of the  
15 license will undermine public trust that the gambling operations with  
16 respect to which the license would be issued are free from criminal  
17 and dishonest elements and would be conducted honestly. (a) The  
18 burden of proving his or her qualifications to receive any license is  
19 on the applicant.

20 8. 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  
23 the applicant is all of the following:

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

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

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

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

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

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

1 (b) Failure of the applicant to provide information,  
2 documentation, and assurances required by this chapter or requested  
3 by the chief, or failure of the applicant to reveal any fact material to  
4 qualification, or the supplying of information that is untrue or  
5 misleading as to a material fact pertaining to the qualification criteria.

6 (c) (1) Except as provided in paragraph (2), conviction of a  
7 felony, including a conviction by a federal court or a court in  
8 another state for a crime that would constitute a felony if  
9 committed in California.

10 (2) A conviction of a felony for the possession of  
11 cannabis, the facts of which would not constitutes a felony or  
12 misdemeanor under California law on the date the application  
13 for a license is submitted, shall not constitute a basis to deny a  
14 license pursuant to this section.

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

16 (a) The commission, after considering the recommendation of  
17 the chief<sup>3</sup> 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 prepare  
27 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.

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



1 11. Business and Professions Code, section 19871 provides:

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

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

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

8 (A) To call and examine witnesses.

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

11 (C) To cross-examine opposing witnesses on  
12 any matters relevant to the issues, even though the  
13 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 his or her own  
18 behalf, he or she may be called and examined as if under cross-  
19 examination.

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

28 (b) Nothing in this section confers upon an applicant a right to  
discovery of the department's<sup>4</sup> 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.

12. 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:

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

1 \* \* \*

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

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

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

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

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

(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,
- (2) An Administrative Law Judge.

1 (d) The applicant or the complainant, or the applicant and the  
2 complainant, may request a continuance in writing to the Executive  
3 Director stating the reason for the continuance and any proposed  
future hearing dates. The Executive Director or Commission may  
approve the request.

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

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

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

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

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

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

15 (1) In advance of the GCA hearing, upon a motion of a  
16 party or by order of the presiding officer, the presiding officer  
17 may conduct a pre-hearing conference, either in person, via  
18 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:

19 (A) Evidentiary issues;

20 (B) Witness and exhibit lists;

21 (C) Alterations in the Bureau recommendation;

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

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

25 (2) The GCA hearing need not be conducted according to  
26 technical rules of evidence. Any relevant evidence may be  
27 considered, and is sufficient in itself to support findings if it is  
28 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.

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

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

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

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

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

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

22 (k) Except as otherwise provided in subsection (g), the  
23 complainant and applicant shall have the right to call and examine  
24 witnesses under oath; to introduce relevant exhibits and documentary  
25 evidence; to cross-examine opposing witnesses on any relevant matter,  
26 even if the matter was not covered in direct examination; to impeach  
27 any witness, regardless of which party first called the witness to  
28 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.