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8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**

CALIFORNIA GAMBLING
CONTROL COMMISSION
2016 AUG 18 AM 10:57

13 **In the Matter of the Statement of Reasons for
Denial of Application for a Work Permit:**

BGC Case No. BGC-HQ2016-00005SL

CGCC Case No: CGCC-2016-0526-7A

15 **LIPPINE NOP**
16 [REDACTED]

STATEMENT OF REASONS

17
18 **Respondent.**

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19
20 Complainant alleges as follows:

21 **PARTIES**

22 1. Wayne J. Quint, Jr. (Complainant) brings this Statement of Reasons for denial of
23 application for a work permit solely in his official capacity as the Chief of the California
24 Department of Justice, Bureau of Gambling Control (Bureau).

25 2. On or about January 12, 2016, the Bureau received an Application for Initial Regular
26 Work Permit/Temporary Work Permit, dated January 7, 2016 (application or current application)
27 from Lippine Nop (Respondent) to allow her employment at the Empire Sportsmen's Association,
28 a licensed gambling establishment in Modesto, California.

1 3. Previously, in October 2012, Respondent submitted an Application for Initial Regular
2 Work Permit/Temporary Work Permit (2012 application). Effective January 2, 2015, the 2012
3 application was denied by the California Gambling Control Commission (Commission) in the case
4 of *In the Matter of the Statement of Reasons for Denial of Application for a Work Permit: Lippine*
5 *Nop*, BGC Case No. BGC-HQ-2014-00010SL, CGCC Case No. CGCC-2014-0508-07 (2015
6 Denial).¹

7 4. The 2015 Denial ordered, among other things, that Respondent was precluded from
8 applying for a license, registration or work permit for one year from the effective date of the 2015
9 Denial (2015 Denial, p. 9, ll. 9-10). Respondent's current application was submitted one year and
10 ten days from the effective date of the 2015 Denial.

11 5. On or about January 21, 2016, the Commission declined to issue Respondent a
12 temporary work permit. This denial was required by California Code of Regulations, title 4,
13 section 12122, subdivisions (c)(3),² because, as alleged above, her 2012 application had been
14 denied by the Commission.³

15 6. On or about March 29, 2016, the Bureau submitted a Background Investigation Report
16 to the Commission recommending that Respondent's current application be denied. The Bureau
17 asserted that Respondent's application should be denied for the same reasons her 2012 application
18 was denied. The Bureau further asserted that in the slightly over one year since the 2015 Denial,
19 Respondent has not demonstrated that she is suitable for licensure or that she is a person of good
20 character, honesty, and integrity.

21 7. At its May 26, 2016, meeting the Commission referred the determination of
22 Respondent's suitability to be granted a regular work permit to an evidentiary hearing.

23 _____
24 ¹ A copy of the Commission's Decision and Order in the 2015 Denial is attached as
Attachment 1 and incorporated herein by reference.

25 ² The statutes and regulations applicable to this Statement of Reasons are quoted in
26 pertinent part in Appendix A.

27 ³ The denial of a temporary work permit does not stop the processing or review (which
28 includes, when appropriate, an evidentiary hearing) of the application for a regular work permit.
(Cal. Code. Regs., tit. 4, § 12124.)

1 8. On or about May 31, 2016, the Commission's Deputy Director, Licensing Division,
2 advised Respondent that the evidentiary hearing will be conducted pursuant to California Code of
3 Regulations, title 4, section 12060, and provided her with a Notice of Defense form.

4 9. On or about June 13, 2016, Respondent submitted a Notice of Defense, dated June 6,
5 2016.

6 **FIRST CAUSE FOR DENIAL OF APPLICATION**
7 **(Criminal Conviction – Crime of Moral Turpitude)**

8 10. Respondent's application for a regular work permit is subject to denial in that on or
9 about April 22, 2003, upon a plea of guilty, Respondent was convicted of violating Michigan
10 Penal Code section 750.356D4, Retail Fraud, Third Degree, a misdemeanor and crime of moral
11 turpitude or dishonesty, in the case of *City of Holland v. Lippine Nop* (Mich. 58th Judicial Dist.,
12 2003, No. HL-01-0040355-SM) (2003 conviction).

13 11. Respondent submitted her current application more than ten years after the date of her
14 2003 conviction. Respondent has not been granted relief from this conviction pursuant to Penal
15 Code sections 1203.4, 1203.4a, or 1203.45; or any other provision of law; or been granted the
16 equivalent relief in the State of Michigan.

17 (Bus. & Prof. Code, §§ 19912, 19914, 19857, subds., (a) & (b), & 19859, subds. (a) & (d);
18 Cal. Code. Regs., tit, 4, § 12105, subds. (a)(2), (c) & (e).)

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**
20 **(Honesty, Integrity & Failure to Disclose – Untrue Statement: Criminal Conviction)**

21 12. Respondent's application for a regular work permit is subject to denial in that
22 Respondent failed to disclose, under penalty of perjury, in her 2012 application her 2003
23 conviction.

24 13. Because of the passage of more than ten years since the 2003 conviction, Respondent
25 was not required to disclose that conviction on her current application. However, because she is
26 not now required to disclose the 2003 conviction on her current application, that does not diminish
27 the fact that she was required to disclose it in her 2012 application and by her failure to do so was
28

1 willing to supply misleading or untrue information to the Commission and Bureau when it suited
2 her purposes to do so.

3 (Bus. & Prof. Code, §§ 19912, 19857, subds. (a) & (b), & 19859, subds. (a) & (b); Cal.
4 Code. Regs., tit. 4, § 12105, subds. (a)(2), (c) & (e).)

5 **THIRD CAUSE FOR DENIAL OF APPLICATION**

6 **(Honesty, Integrity & Failure to Disclose – Untrue Statement: Criminal Conduct)**

7 14. Respondent's application for a regular work permit is subject to denial in that on or
8 about June 18, 2013, Respondent provided the Bureau with a false or significantly misleading
9 statement regarding the circumstances that lead to her 2003 conviction. Respondent told the
10 Bureau that her sister stole a pair of shoes for which Respondent took the blame. In fact, in
11 addition to the items stolen by her sister (sandals and a purse), Respondent stole a carton of
12 cigarettes and laundry detergent from the store.

13 15. The fact that this conduct lead to her mandatory denial in the prior administrative
14 proceeding,⁴ does not preclude the Commission from considering it again in this proceeding⁵ and
15 it does not lessen the fact that she is disposed to supplying misleading or untrue information to the
16 Bureau when it furthers her purposes to do so.

17 (Bus. & Prof. Code. §§ 19912, 19857, subds. (a) & (b), & 19859, subds. (a) & (b); Cal.
18 Code. Regs., tit. 4, § 12105, subds. (a)(2), (c) & (e).)

19 **PRAYER**

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

- 22 1. Denying Respondent's Application for a Work Permit; and


23 ⁴ Decision and Order, page 8, paragraph 44, in the case of *In the Matter of the Statement of*
24 *Reasons for Denial of Application for a Work Permit: Lippine Nop*, BGC Case No. BGC-HQ-
2014-00010SL, CGCC Case No. CGCC-2014-0508-07 (2015 Denial).

25 ⁵ There are no statutes of limitation or preclusions from considering an applicant's
26 character, honest, integrity or willingness to provide false or misleading information in either
27 Business and Professions Code section 19857, subdivisions (b) or (c), or in section 19859,
28 subdivisions (a) or (b). Such impediments would undermine the purposes of the Gambling
Control Act (Bus. & Prof. Code, § 19800 et seq.) to protect the public and insure the integrity of
licensed, controlled gambling (Bus. & Prof. Code, § 19801, subds. (g) & (i)).

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2. Taking such other and further action as the Commission may deem appropriate.

Dated: August 15, 2016.


Wayne J. Quint, Jr. Chief
Bureau of Gambling Control
California Department of Justice
Complainant

1 person licensed or approved. The commission may condition, restrict,
2 discipline, or take action against the license of an individual owner
3 endorsed on the license certificate of the gambling enterprise whether or
4 not the commission takes action against the license of the gambling
5 enterprise.

6 * * *

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

10 4. Business and Professions Code section 19870 provides:

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

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

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

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

26 (e) A decision of the commission denying a license or approval,
27 or imposing any condition or restriction on the grant of a license or
28 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.

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

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

4 (A) To call and examine witnesses.

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

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

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

11 (E) To offer rebuttal evidence.

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

14 (4) The meeting need not be conducted according to
15 technical rules relating to evidence and witnesses. Any relevant
16 evidence may be considered, and is sufficient in itself to support a
17 finding, if it is the sort of evidence on which responsible persons
18 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.

19 (b) Nothing in this section confers upon an applicant a right to
20 discovery of the department's^[6] investigative reports or to require
21 disclosure of any document or information the disclosure of which is
22 otherwise prohibited by any other provision of this chapter.

23 6. Business and Professions Code section 19912, provides in part:

24 (d) Application for a work permit for use in any jurisdiction
25 where a locally issued work permit is not required by the licensing
26 authority of a city, county, or city and county, shall be made to the

27 ⁶ Hereinafter, "department" refers to the Department of Justice, Bureau of Gambling
28 Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 department, and may be granted or denied for any cause deemed
2 reasonable by the commission. . . .

3 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

5 (g) Public trust that permissible gambling will not endanger
6 public health, safety, or welfare requires that comprehensive measures
7 be enacted to ensure that gambling is free from criminal and corruptive
8 elements, that it is conducted honestly and competitively, and that it is
9 conducted in suitable locations.

10 * * *

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

17 8. Business and Professions Code section 19856, subdivision (a) provides in part:

18 The burden of proving his or her qualifications to receive any license
19 is on the applicant.

20 9. Business and Professions Code section 19857 provides:

21 No gambling license shall be issued unless, based on all 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,
unfair, or illegal practices, methods, and activities in the conduct of
controlled gambling or in the carrying on of the business and financial
arrangements incidental thereto.

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

1 10. 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 the chapter or requested by
8 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 to a material fact pertaining to the qualification criteria.

11 * * *

12 (d) Conviction of the applicant for any misdemeanor involving
13 dishonesty or moral turpitude within the 10-year period proceeding the
14 submission of the application, unless the applicant has been granted
15 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
16 Code; provided, however, that granting of relief pursuant to Section
17 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a
18 limitation on the discretion of the commission under Section 19856 or
19 affect the applicant's burden under Section 19857.

20 11. California Code of Regulations, title 4, section 12105 provides in part:

21 (a) An application for a work permit shall be denied by the
22 Commission if either of the following applies:

23 * * *

24 (2) The applicant is found unqualified pursuant to the
25 criteria set forth in subdivisions (a) or (b) of Business and
26 Professions Code section 19857.

27 * * *

28 (c) The grounds for denial set forth in this section apply in
addition to any grounds prescribed by statute.

* * *

(e) The provisions of Business and Professions Code sections
19857, 19859, and 19914, subdivision (a) shall be deemed incorporated
by reference into this regulation for the purposes set forth in this section.
For the purposes of this section, the criteria incorporated by reference in
these regulations from Business and Professions Code section 19914,
subdivision (a), apply to conduct or events occurring prior to the filing
of an application for a work permit.

1 12. California Code of Regulations, title 4, section 12124 provides:

2 Denial of an application for a temporary work permit or
3 cancellation of a temporary work permit shall not suspend the
4 processing and review of the related application for a regular work
5 permit.

6 13. Penal Code section 1203.4, provides in pertinent part:

7 (a) (1) In any case in which a defendant has fulfilled the
8 conditions of probation for the entire period of probation, or has been
9 discharged prior to the termination of the period of probation, or in any
10 other case in which a court, in its discretion and the interests of justice,
11 determines that a defendant should be granted the relief available under
12 this section, the defendant shall, at any time after the termination of the
13 period of probation, if he or she is not then serving a sentence for any
14 offense, on probation for any offense, or charged with the commission
15 of any offense, be permitted by the court to withdraw his or her plea of
16 guilty or plea of nolo contendere and enter a plea of not guilty; or, if he
17 or she has been convicted after a plea of not guilty, the court shall set
18 aside the verdict of guilty; and, in either case, the court shall thereupon
19 dismiss the accusations or information against the defendant and except
20 as noted below, he or she shall thereafter be released from all penalties
21 and disabilities resulting from the offense of which he or she has been
22 convicted, except as provided in Section 13555 of the Vehicle Code.
23 The probationer shall be informed, in his or her probation papers, of
24 this right and privilege and his or her right, if any, to petition for a
25 certificate of rehabilitation and pardon. The probationer may make the
26 application and change of plea in person or by attorney, or by the
27 probation officer authorized in writing. However, in any subsequent
28 prosecution of the defendant for any other offense, the prior conviction
may be pleaded and proved and shall have the same effect as if
probation had not been granted or the accusation or information
dismissed. The order shall state, and the probationer shall be informed,
that the order does not relieve him or her of the obligation to disclose
the conviction in response to any direct question contained in any
questionnaire or application for public office, for licensure by any state
or local agency, or for contracting with the California State Lottery
Commission.

14. Penal Code section 1203.45, provides:

(a) In a case in which a person was under 18 years of age at the
time of commission of a misdemeanor and is eligible for, or has
previously received, the relief provided by Section 1203.4 or 1203.4a,
that person, in a proceeding under Section 1203.4 or 1203.4a, or a
separate proceeding, may petition the court for an order sealing the
record of conviction and other official records in the case, including

1 records of arrests resulting in the criminal proceeding and records
2 relating to other offenses charged in the accusatory pleading, whether
3 the defendant was acquitted or charges were dismissed. If the court
4 finds that the person was under 18 years of age at the time of the
5 commission of the misdemeanor, and is eligible for relief under Section
6 1203.4 or 1203.4a or has previously received that relief, it may issue its
7 order granting the relief prayed for. Thereafter the conviction, arrest, or
8 other proceeding shall be deemed not to have occurred, and the
9 petitioner may answer accordingly any question relating to their
10 occurrence.

11 (b) This section applies to convictions that occurred before, as
12 well as those that occur after, the effective date of this section.

13 (c) This section shall not apply to offenses for which registration
14 is required under Section 290, to violations of Division 10 (commencing
15 with Section 11000) of the Health and Safety Code, or to misdemeanor
16 violations of the Vehicle Code relating to operation of a vehicle or of a
17 local ordinance relating to operation, standing, stopping, or parking of a
18 motor vehicle.

19 (d) This section does not apply to a person convicted of more
20 than one offense, whether the second or additional convictions occurred
21 in the same action in which the conviction as to which relief is sought
22 occurred or in another action, except in the following cases:

23 (1) One of the offenses includes the other or others.

24 (2) The other conviction or convictions were for the
25 following:

26 (A) Misdemeanor violations of Chapters 1
27 (commencing with Section 21000) to 9
28 (commencing with Section 22500), inclusive,
Chapter 12 (commencing with Section 23100), or
Chapter 13 (commencing with Section 23250) of
Division 11 of the Vehicle Code, other than Section
23103, 23104, 23105, 23152, 23153, or 23220.

(B) Violation of a local ordinance relating to
the operation, stopping, standing, or parking of a
motor vehicle.

(3) The other conviction or convictions consisted of
any combination of paragraphs (1) and (2).

(e) This section shall apply in a case in which a person was
under 21 years of age at the time of the commission of an offense as to
which this section is made applicable if that offense was committed prior
to March 7, 1973.

(f) In an action or proceeding based upon defamation, a court,
upon a showing of good cause, may order the records sealed under this

1 section to be opened and admitted into evidence. The records shall be
2 confidential and shall be available for inspection only by the court, jury,
3 parties, counsel for the parties, and any other person who is authorized
4 by the court to inspect them. Upon the judgment in the action or
5 proceeding becoming final, the court shall order the records sealed.

6 (g) A person who is 26 years of age or older and petitions for an
7 order sealing a record under this section may be required to reimburse
8 the court for the actual cost of services rendered, whether or not the
9 petition is granted and the records are sealed or expunged, at a rate to be
10 determined by the court, not to exceed one hundred fifty dollars (\$150),
11 and to reimburse the county for the actual cost of services rendered,
12 whether or not the petition is granted and the records are sealed or
13 expunged, at a rate to be determined by the county board of supervisors,
14 not to exceed one hundred fifty dollars (\$150), and to reimburse any city
15 for the actual cost of services rendered, whether or not the petition is
16 granted and the records are sealed or expunged, at a rate to be
17 determined by the city council, not to exceed one hundred fifty dollars
18 (\$150). Ability to make this reimbursement shall be determined by the
19 court using the standards set forth in paragraph (2) of subdivision (g) of
20 Section 987.8 and shall not be a prerequisite to a person's eligibility
21 under this section. The court may order reimbursement in a case in
22 which the petitioner appears to have the ability to pay, without undue
23 hardship, all or any portion of the cost for services established pursuant
24 to this subdivision.
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