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

14 In the Matter of the Statement of Reasons for
15 Denial of Application for a Work Permit for:

16 **BUNNY HENG**
17 

18 **Respondent.**

CGCC Case No. CGCC-2022-0324-9

BGC Case No. BGC-HQ2022-00006SL

STATEMENT OF REASONS

21 Complainant alleges as follows:

22 **PARTIES**

- 23 1. Yolanda Morrow (Complainant) brings this Statement of Reasons solely in her
24 official capacity as Director of the California Department of Justice, Bureau of Gambling Control
25 (Bureau).
- 26 2. Bunny Heng (Respondent) has been employed by the Napa Valley Casino (Casino) as
27 a dealer since May 2021.

1 **THE APPLICATION AND THIS PROCEEDING**

2 3. On April 1, 2021, the Bureau received an Application for Employee Category
3 License, signed on March 24, 2021, and Commission Work Permit or TPPPS Worker:
4 Supplemental Information, also signed March 24, 2021 (collectively, Application) from
5 Respondent to allow for employment as a dealer for Casino.

6 4. On April 14, 2021, the California Gambling Control Commission (Commission)
7 issued Respondent a temporary work permit, number GEWP-002985, for his employment at
8 Casino. Respondent has received a series of 120-day extensions of this temporary work permit.
9 The Commission issued the extensions on August 4, 2021 and January 29, 2022. Respondent's
10 temporary work permit expired April 4, 2022.

11 5. On May 21, 2021, the Bureau requested additional information and/or documentation
12 from Respondent. Respondent provided replies on May 26, 2021, June 17, 2021 and June 22,
13 2021. On June 30, 2021, the Bureau sent correspondence to Respondent requesting further
14 supplemental information. Respondent responded on July 8, 2021.

15 6. On September 24, 2021, the Bureau notified Respondent that it intended to
16 recommend to the Commission denial of his Application. They informed Respondent that he may
17 meet with the Bureau to be informed of the basis for the Bureau's recommendation.

18 7. On October 1, 2021, the Bureau was notified by Respondent that he wished to
19 withdraw his Application and would provide a letter of resignation to Casino. On October 15,
20 2021, the Bureau submitted a request to withdraw Respondent's Application to the Commission.
21 On December 2, 2021, the Commission denied the request to withdraw the Application and
22 requested the Bureau complete its investigation.

23 8. On January 24, 2022, then Bureau Assistant Director Yolanda Morrow and Manager
24 II Frances Asuncion met via telephone with Respondent, Respondent's Designated Agent Jason
25 Giannini and an interpreter and discussed the basis for the Bureau's recommendation to deny the
26 work permit.

1 9. On January 25, 2022, the Bureau issued its Work Permit Initial Background
2 Investigation Report, Level III, recommending that the Commission deny a work permit for
3 Respondent.

4 10. At its March 24, 2022, meeting the Commission referred consideration of
5 Respondent's Application to an evidentiary hearing to be held pursuant to California Code of
6 Regulations, title 4, section 12060.

7 11. On or about April 5, 2022, Respondent submitted a Notice of Defense.

8 12. On June 30, 2022, Respondent's attorney, Tiffany E. Lichtig, was notified via email
9 of a prehearing conference set for December 7, 2022, and an evidentiary hearing to be held on
10 January 19, 2023.

11 **BURDEN OF PROOF**

12 13. Respondent has the burden of proving that he is qualified to receive a work permit.
13 (Bus. & Prof. Code, § 19856, subd. (a).)

14 **FIRST CAUSE FOR DENIAL**

15 **(Disqualified and Unqualified – Failure to Disclose)**

16 14. Respondent's Application is subject to denial because Respondent, under penalty of
17 perjury, failed to disclose on his Application that, in 2018, Respondent was terminated from his
18 position as a dealer at Lucky Chances Casino (Lucky Chances). Respondent indicated on his
19 Application that he resigned from that position due to an emergency, when in fact he had been
20 terminated for gross misconduct and engaging in a personal financial transaction in connection
21 with an incident occurring at Lucky Chances on December 20, 2018. In not disclosing his
22 termination and the true reasons therefor from his position as a dealer at Lucky Chances,
23 Respondent provided inaccurate and misleading information to the Bureau regarding the
24 circumstances surrounding his termination and failed to disclose required information that is
25 material to his Application.

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

28

1 **SECOND CAUSE FOR DENIAL**

2 **(Untrue and Misleading Statements Made to the Bureau)**

3 15. Respondent’s Application is further subject to denial in that he made untrue and
4 misleading statements to the Bureau in connection with the December 20, 2018, incident that led
5 to his termination from Lucky Chances for gross misconduct and engaging in a personal financial
6 transaction. In response to Bureau inquiries about the circumstances of the incident and
7 subsequent termination, Respondent made statements that were inconsistent with, and omitted
8 material facts provided in, a police report and other documentation. While the incident occurred
9 in 2018, his failure to disclose and untrue and misleading statements to the Bureau occurred in
10 2021.

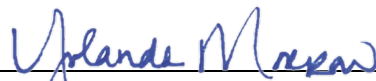
11 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859 subd. (b).)

12 **PRAYER**

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

- 15 1. Denying Respondent’s Application for a work permit;
16 2. Taking such other and further action as the Commission may deem appropriate.

17
18 Dated: November 29, 2022



YOLANDA MORROW, 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 not
11 issued to, or held by, unqualified or disqualified persons, or by
12 persons are conducted in a manner that is inimical to the public
13 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 a
21 person who is found to be unqualified pursuant to the criteria set forth
22 in Section 19857, and “disqualified person” means a person who is
23 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,¹ including, without limitation, the power to do all of the
following:

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

¹ “Chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

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

3 4. Business and Professions Code section 19853, subdivision (a), provides in part:

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

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

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

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

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

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

18 6. Business and Professions Code section 19857 provides:

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

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

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

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

28

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

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

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

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

11 8. Business and Professions Code section 19866 provides:

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

17 9. Business and Professions Code section 19870 provides:

18 (a) The commission, after considering the recommendation of the
19 chief² and any other testimony and written comments as may be
20 presented at the meeting, or as may have been submitted in writing to
21 the commission prior to the meeting, may either deny the application
22 or grant a license to an applicant who it determines to be qualified to
23 hold the license.

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

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

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

(e) A decision of the commission denying a license or approval,
or imposing any condition or restriction on the grant of a license or
approval may be reviewed by petition pursuant to Section 1085 of the
Code of Civil Procedure. Section 1094.5 of the Code of Civil
Procedure shall not apply to any judicial proceeding described in the
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.

² "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 10. Business and Professions Code section 19871 provides:

2 (a) The commission meeting described in Section 19870 shall be
3 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 issues
10 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 behalf,
18 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 a
23 finding, if it is the sort of evidence on which responsible persons
24 are accustomed to rely in the conduct of serious affairs, regardless
25 of the existence of any common law or statutory rule that might
26 make improper the admission of that evidence over objection in a
27 civil action.

28 (b) Nothing in this section confers upon an applicant a right to
discovery of the department's^[3] 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.

11. Business and Professions Code section 19914 provides, in part:

(a) The commission may revoke a work permit or, if issued by
the licensing authority of a city, county, or city and county, notify the
authority to revoke it, and the licensing authority shall revoke it, if the
commission finds, after a hearing, that a gambling enterprise employee
or independent agent has failed to disclose, misstated, or otherwise

³ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
(h).)

1 misled the department or the commission with respect to any fact
2 contained in any application for a work permit, or if the commission
3 finds that the employee or independent agent, subsequent to being
4 issued a work permit, has done any of the following:

5 (1) Committed, attempted, or conspired to do any acts
6 prohibited by this chapter.

7 (3) Concealed or refused to disclose any material fact in any
8 investigation by the department.

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

11 If the Commission elects to hold an evidentiary hearing, the
12 hearing will be conducted as a GCA hearing under Section 12060,
13 unless the Executive Director or the Commission determines the
14 hearing should be conducted as an APA hearing under Section
15 12058

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

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

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

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

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

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

16 (4) All other written comments or writings containing
17 relevant evidence.

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

21 (1) In advance of the GCA hearing, upon a motion of a party
22 or by order of the presiding officer, the presiding officer may
23 conduct a pre-hearing conference, either in person, via
24 teleconference, or by email exchange, subject to the presiding
25 officer's availability and shall issue a pre-hearing order if
26 appropriate or requested by either party. The pre-hearing
27 conference and order may address the following:

28 (A) Evidentiary issues;

(B) Witness and exhibit lists;

(C) Alterations in the Bureau recommendation;

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

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

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

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 introduction
4 of any documentary evidence that has not been disclosed pursuant
5 to subsection (e); or

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

8 (h) The complainant shall present all facts and information in the
9 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.

14. California Code of Regulations, title 4, section 12040, provides:

(a) An application for an initial or renewal license.

(1) Will be denied if the Commission finds that the applicant
has no satisfied the requirements of Business and Professions Code
section 19857; or,

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

(3) May be denied if the Commission finds the applicant has violated any law or ordinance with respect to campaign finance disclosure or contribution limitations pursuant to subdivision (a) of Business and Professions Code section 19982.

(b) An application for a cardroom owner type license:

(1) Will be denied if the Commission finds that Business and Professions Code section 19858 is applicable.

(2) Will be denied if the Commission finds that the applicable local gambling ordinance does not conform to the requirements of Business and Professions Code section 19860.

(3) May be denied if the Commission finds that the applicant meets any of the criteria for license denial set forth in subdivision (a) of Business and Professions Code section 19862.

(c) An applicant for a TPPPS category license:

(1) May be denied if the Commission finds the applicant has violated one or more of the contract criteria set forth in paragraphs (5), (11), or (20) of subsection (b) of Section 12270 or paragraphs (1) and (3) of subsection (c) of Section 12270.

(2) May be denied if the Commission finds the applicant has failed to comply with one or more of the contract criteria set forth in paragraphs (8), (9), (15), (16), (17), (18) and (21) of subsection (b) of Section 12270, or in paragraphs (2) of subsection (c) or subsection (e) of Section 12270.

15. California Code of Regulations, title 4, section 12122, subdivision (d) provides:

(d) Upon issuance or denial of a license or Commission work permit by the Commission, the temporary license will become void and cannot be used thereafter.