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

13 In the Matter of the Statement of Reasons for  
Denial of Application for a Third-Party  
14 Proposition Player Services License for:

**BGC Case No. BGC-HQ2018-00060SL**

**CGCC Case No: CGCC-2018-1115-9D**

15 **LLOYD DEREK MARIN JR.**  
16 [REDACTED]

**STATEMENT OF REASONS**

17 **Respondent.**

18  
19  
20 Complainant alleges as follows:

21 **PARTIES**

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

25 2. On or about March 3, 2015, the Bureau received an Application for Third-Party  
26 Proposition Player Services License for Supervisor, Player or Other Employee and a Level I  
27 Supplemental Information, both signed on February 18, 2015 (collectively, Application), from  
28 Lloyd Derek Marin, Jr. (Respondent), to allow for his continued employment as a third-party

1 proposition player (prop-player) for L.E. Gaming, Inc. (L.E.), a registered third-party proposition  
2 player services provider, registration number TPPP-000118.<sup>1</sup>

3 3. Respondent has been employed as a prop-player by L.E. since September 2013. On  
4 or about October 28, 2013, the California Gambling Control Commission (Commission) issued  
5 Respondent a registration, number TPPL-012779, as a prop-player for this employment.  
6 Respondent's registration is currently scheduled to expire on October 31, 2020.

7 4. Prior to L.E., Respondent was employed as a prop-player with Global Player  
8 Services, Inc. (Global). He was issued a registration, number TPPL-011029, for this employment  
9 on or about November 28, 2012.

10 5. On or about September 7, 2018, the Bureau submitted a Third-Party Player  
11 Background Investigation Report to the Commission, in which it recommended that Respondent's  
12 Application be denied.

13 6. At its November 15, 2018, meeting, the Commission referred consideration of  
14 Respondent's Application to an evidentiary hearing, which is to be held pursuant to California  
15 Code of Regulations, title 4, section 12060.<sup>2</sup>

16 7. On or about December 6, 2018 Respondent submitted a Notice of Defense, which  
17 was signed and dated on December 3, 2018.

18 **BURDEN OF PROOF**

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

21  
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24  
25 <sup>1</sup> Respondent is required to convert his registration to a license and submit an application  
26 for such licensure pursuant to California Code of Regulations, title 4, sections 12205.1 and  
27 12218, because L.E. was summoned on January 28, 2015, to submit an application to convert its  
28 registration to a license.

<sup>2</sup> The statutes and regulations applicable to this Statement of Reasons are quoted in  
pertinent part in Appendix A.

1 **CAUSE FOR DENIAL**

2 **(History of Disregard for the Law Demonstrating Unsuitability for Licensure)**

3 9. Respondent's Application is subject to denial and his registration subject to  
4 revocation or cancellation in that from 2003 through 2009 he sustained a total of five different  
5 Vehicle Code infractions. Further, Respondent failed to pay all five of those Vehicle Code  
6 infractions. Finally, he has apparently been driving on a suspended and/or expired driver's  
7 license from October 15, 2009 until at least 2017.

8 10. When asked in 2017 about the Vehicle Code infractions and failures to pay by the  
9 Bureau, Respondent refused to take responsibility for them. He stated that he had only recently  
10 become aware of the five failures to pay, wanted the charges dropped, and claimed they may be  
11 fraudulent or erroneous.

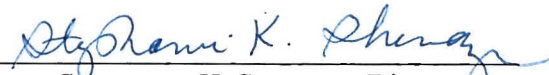
12 (Bus. & Prof. Code, §§ 19856 & 19857, subs. (a) & (b); Cal. Code. Regs., tit. 4, §§ 12200.18,  
13 subd. (a), 12205 & 12218.11, subs. (e) [mandatory denial].)

14 **PRAYER**

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

- 17 1. Denying Respondent's Application for a third-party proposition player license;  
18 2. Revoking or cancelling Respondent's registration, number TPPL-012779; and  
19 3. Taking such other and further action as the Commission may deem appropriate.

20  
21 Dated: March 21, 2019



22 STEPHANIE K. SHIMAZU, Director  
23 Bureau of Gambling Control  
24 California Department of Justice  
25 Complainant  
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28

1 **APPENDIX A**

2 **JURISDICTION**

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

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

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

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

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

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

21 (b) For the purposes of this section, “unqualified person” means a  
22 person who is found to be unqualified pursuant to the criteria set forth  
23 in Section 19857, and “disqualified person” means a person who is  
24 found to be disqualified pursuant to the criteria set forth in Section  
25 19859.

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

27 The commission shall have all powers necessary and proper to  
28 enable it fully and effectually to carry out the policies and purposes of  
this chapter,<sup>3</sup> 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

<sup>3</sup> “Chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

1 condition, restrict, discipline, or take action against the license of an  
2 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.

3 \* \* \*

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

6  
7 4. Business and Professions Code, section 19853, subdivision (a), provides in part:

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

10 \* \* \*

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

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

14 (a) The commission, after considering the recommendation of the  
15 chief<sup>4</sup> and any other testimony and written comments as may be  
presented at the meeting, or as may have been submitted in writing to  
16 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.

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

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

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

23 (e) A decision of the commission denying a license or approval,  
24 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  
25 Code of Civil Procedure. Section 1094.5 of the Code of Civil  
26 Procedure shall not apply to any judicial proceeding described in the  
foregoing sentence, and the court may grant the petition only if the

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28 <sup>4</sup> "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 court finds that the action of the commission was arbitrary and  
2 capricious, or that the action exceeded the commission's jurisdiction.

3 6. Business and Professions Code, section 19871 provides:

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

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

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

10 (A) To call and examine witnesses.

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

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

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

18 (E) To offer rebuttal evidence.

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

22 (4) The meeting need not be conducted according to  
23 technical rules relating to evidence and witnesses. Any relevant  
24 evidence may be considered, and is sufficient in itself to support a  
25 finding, if it is the sort of evidence on which responsible persons  
26 are accustomed to rely in the conduct of serious affairs, regardless  
27 of the existence of any common law or statutory rule that might  
28 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<sup>5</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.

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

1 7. Business and Professions Code section 19984, subdivision (b), provides, in part:

2 The commission shall establish reasonable criteria for, and require  
3 the licensure and registration of, any person or entity that provides  
4 proposition player services to gambling establishments pursuant to this  
5 section, including owners, supervisors, and players . . . . The  
6 commission may impose licensing requirements, disclosures,  
7 approvals, conditions, or limitations as it deems necessary to protect  
8 the integrity of controlled gambling in this state . . . .

9 8. 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 9. 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 on  
24 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.

(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

1 future hearing dates. The Executive Director or Commission may  
2 approve the request.

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

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

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

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

13 (4) All other written comments or writings containing  
14 relevant evidence.

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

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

25 (A) Evidentiary issues;

26 (B) Witness and exhibit lists;

27 (C) Alterations in the Bureau recommendation;

28 (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.

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



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

3 (2) Continue any meeting or hearing as necessary to mitigate  
4 any prejudice.

5 (h) The complainant shall present all facts and information in the  
6 Bureau report, if any, and the results of the Bureau's background  
7 investigation, and the basis for any recommendation, if the Bureau  
8 filed one with the Commission according to Business and Professions  
Code section 19868, to enable the Commission to make an informed  
9 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.

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

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

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

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

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

23 10. California Code of Regulations, title 4, section 12200.3, subdivision (g), provides:

24 Registrations, licenses, and badges are specific to the primary  
25 owner. Third party proposition player services cannot be provided  
without first applying for and obtaining a registration, license, or  
26 badge.

1 11. California Code of Regulations, title 4, section 12205 provides:

2 (a) Any regular registration issued in accordance with this  
3 chapter<sup>6</sup> shall be subject to cancellation pursuant to this section. A  
4 registration shall be cancelled if the Commission determines after a  
5 noticed hearing that the registrant is ineligible for registration, has  
6 failed in the application for registration to reveal any fact material to  
7 the holder's qualification for registration, or has supplied information  
8 in the registration application that is untrue or misleading as to a  
9 material fact pertaining to the criteria for issuance of registration.

10 (b) If the Commission finds that any of the circumstances set  
11 forth in subsection (a) apply, then the Executive Director shall  
12 immediately do all of the following:

13 (1) Provide written notice to the registrant and the Bureau of  
14 the cancellation of the registration and the grounds thereof, and  
15 provide written notice of the cancellation to the owner, if the  
16 registrant is a supervisor, player, or other employee and to any  
17 gambling establishment in which the registrant provides  
18 proposition player services.

19 (2) Notify the registrant, if an individual, that he or she is  
20 required to surrender the registrant's badge to the Commission not  
21 more than ten days following the date that the notice of the  
22 cancellation was mailed or such greater time as is authorized by  
23 the Executive Director.

24 12. California Code of Regulations, title 4, section 12205.1, provides:

25 (a) As expeditiously as possible in light of available program  
26 resources, the Bureau shall summon persons registered as primary  
27 owners, owners, supervisors, players, and other employees for the  
28 purpose of applying for licenses under this chapter. The registration of  
any registrant that fails or refuses to submit the applicable Application  
for Third Party Proposition Player Services License for Business  
Entities and Owners (BGC-433 (Rev. 10/17)) or Application for  
Third-Party Proposition Player Services License for Supervisors,  
Players or Other Employees (BGC-434 (Rev. 10/17)), which are  
hereby incorporated by reference, including any fees to the Bureau  
within 30 days of receiving a summons shall expire by operation of  
law on the following day. Prior to and during review of a request to  
convert a registration to a license, a registration shall remain valid and  
may be renewed by the registrant as necessary, upon application and  
approval of renewal of registration as provided in Section 12203A.

(b) Any person who became affiliated with a primary owner  
following receipt of a summons from the Bureau shall apply for

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<sup>6</sup> "Chapter" refers to California Code of Regulations, title 4, division 18, chapter 2.1, section 12200 et seq.

1 registration pursuant to this chapter and shall be called forward by the  
2 Bureau expeditiously.

3 (c) If the registration expires by operation of law, the former  
4 registrant shall submit a new Application for Third Party Proposition  
5 Player Services License for Business Entities and Owners (BGC-433)  
6 or Application for Third-Party Proposition Player Services License for  
7 Supervisors, Players or Other Employees (BGC-434), which are  
8 referenced in subsection (a), and a new nonrefundable application fee  
9 as specified in paragraph (1), and the applicable additional fee  
10 specified in paragraph (3), (4), or (5) of subsection (d) of Section  
11 12008.

12 13. California Code of Regulations, title 4, section 12218 provides:

14 (a) A request to convert a registration to a license shall be  
15 submitted to the Bureau only in response to a written summons to a  
16 primary owner pursuant to Section 12205.1. Each primary owner's  
17 request shall be accompanied by the requests of all affiliated owners,  
18 supervisors, players, and other employees.

19 (b) The request to convert a registration to a license shall  
20 designate whether the license is requested as a primary owner, owner,  
21 supervisor, player, or other employee. The request shall be signed by  
22 the individual requester or, if the requester is a business entity, by the  
23 chief executive officer or other designated officer of the business  
24 entity.

25 (c) The request to convert a registration to a license shall include  
26 all of the following:

27 (1) A completed Application for Third Party Proposition  
28 Player Services License for Business Entities and Owners (BGC-  
433) or Application for Third-Party Proposition Player Services  
License for Supervisors, Players or Other Employees (BGC-434),  
referenced in Section 12205.1.

(2) If applicable, the Trust Supplemental Background  
Investigation Information, BGC-APP-143 (Rev. 05/08), referenced  
in Section 12342 of this division.

(3) The applicable nonrefundable application fee in the  
amount specified in subsection (d) of Section 12008.

(4) Two 2x2 inch color passport-style photographs of a  
requester that is an individual taken no more than one year before  
submission of the request to the Bureau.

(5) The supplemental information package as defined in  
Section 12200(b).

(6) A sum of money that, in the judgment of the Chief of the  
Bureau, will be adequate to pay the anticipated investigation and

1 processing costs, in accordance with Business and Professions  
2 Code sections 19867 and 19984(c).

3 (7) A copy of the summons issued by the Bureau.

4 (d) Nothing in this chapter shall require the Commission or  
5 Bureau to divulge to the requester any confidential information  
6 received from any law enforcement agency or any information  
7 received from any person with assurances that the information would  
8 be maintained as confidential. Nothing in this chapter shall require the  
9 Commission or Bureau to divulge any information that might reveal  
10 the identity of any source of information or jeopardize the safety of  
11 any person.

### 12 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

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

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

22 (c) In reviewing an application for any license, the commission  
23 shall consider whether issuance of the license is inimical to public  
24 health, safety, or welfare, and whether issuance of the license will  
25 undermine public trust that the gambling operations with respect to  
26 which the license would be issued are free from criminal and  
27 dishonest elements and would be conducted honestly. (a) The  
28 burden of proving his or her qualifications to receive any license is  
on the applicant.

15. Business and Professions Code, section 19857 provides:

22 No gambling license shall be issued unless, based on all of the  
23 information and documents submitted, the commission is satisfied that  
24 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.

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

3 16. Business and Professions Code section 19859 provides, in part:

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

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

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

13 17. Business and Professions Code section 19866 provides:

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

19 18. California Code of Regulations, title 4, section 12200.18, provides, in part:

20 The Commission may revoke a registration or license, upon any of  
21 the following grounds, after a hearing conducted pursuant to the same  
22 procedures applicable to the revocation of a gambling establishment  
23 license:

24 (a) The registrant or licensee committed, attempted to commit,  
25 or conspired to commit any acts prohibited by the Act<sup>[7]</sup> or this  
26 chapter.

27 (b) Any act or omission by the registrant that would disqualify  
28 the registrant from obtaining registration under this chapter. Any act  
or omission by the licensee that would disqualify the licensee from  
obtaining licensing under this chapter.

\* \* \*

(f) The registrant or licensee concealed or refused to disclose  
any material fact in any inquiry by the Bureau or the Commission.

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<sup>7</sup> "Act" refers to the "Gambling Control Act." (Bus. & Prof. Code, § 19800 et seq.)

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19. California Code of Regulations, title 4, section 12218.11, provides, in part:

A requester shall be ineligible for licensing for any of the following causes:

\* \* \*

(e) The requester has failed to meet the requirements of Business and Professions Code sections 19856 or 19857.