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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:  
15 **JACKIE SUM**  
16 [Redacted]  
17  
18 **Respondent.**

**BGC Case No. BGC-HQ2018-00001SL**

**CGCC Case No: CCADS-TPPL-014490**

**STATEMENT OF REASONS**

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 December 16, 2014, 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 dated December 5, 2014 (collectively, Application), from Jackie  
28 Sum (Respondent), to allow his employment as a third-party proposition player (prop-player) for

1 Arise, LLC (Arise), a registered third-party proposition player services provider, registration  
2 number TPPP-000067.<sup>1</sup>

3 3. Respondent has been employed as a prop-player by Arise since December 2014. On  
4 or about November 5, 2014, the California Gambling Control Commission (Commission) issued  
5 Respondent a registration, number TPPL-014490, as a prop-player for this employment. The  
6 Respondent's registration currently expires on November 15, 2018.

7 4. On or about November 2, 2017, the Bureau submitted a Third-Party Player  
8 Background Investigation Report to the Commission, recommending that Respondent's  
9 Application be denied.

10 5. On or about December 28, 2017, pursuant to California Code of Regulations, title 4,  
11 section 12060, subdivision (a), the Commission's Executive Director referred the determination  
12 of Respondent's suitability to be issued a prop-player's license to an evidentiary hearing, which is  
13 to be held pursuant to California Code of Regulations, title 4, section 12060.<sup>2</sup>

14 6. On January 9, 2018, Respondent submitted a Notice of Defense, dated January 4.  
15 2018.

### 16 **BURDEN OF PROOF**

17 7. Respondent has the burden of proving his qualifications to receive a license.  
18 (Bus. & Prof. Code, § 19856, subd. (a).)

### 19 **FIRST CAUSE FOR DENIAL**

#### 20 **(Conviction of a Crime Involving a Firearm)**

21 8. Respondent's Application is subject to denial and his registration subject to  
22 revocation or cancellation in that on or about June 16, 2016, Respondent was convicted of  
23 violating Penal Code section 25850, subdivision (a), carrying a loaded firearm in public, a  
24

25 <sup>1</sup> Respondent was required to convert his registration to a license and submit an  
26 application for such licensure pursuant to California Code of Regulations, title 4, sections  
27 12205.1 and 12218, because Arise was summoned on September 28, 2009, to submit an  
28 application to convert its 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 misdemeanor, in the case of *People v. Jackie Sum* (Sup. Ct. Fresno County, 2016, No.  
2 M16912531).

3 9. Respondent's above-noted conviction is less than 10 years old and he has not  
4 obtained relief from that conviction pursuant to Penal Code, sections 1203.4, 1203.4a, or 1203.45.  
5 (Bus. & Prof. Code, §§ 19856 & 19857 subds. (a) & (b); Cal. Code. Regs., tit. 4, §§ 12200.18,  
6 subds. (a) & (b), 12205 & 12218.11, subds. (c) [mandatory denial], (e) [mandatory denial] & (j)  
7 [mandatory denial].)

8 **SECOND CAUSE FOR DENIAL**

9 **(Criminal Convictions)**

10 10. Respondent's Application is subject to denial and his registration subject to  
11 revocation or cancellation, in that in addition to the 2016 conviction alleged in paragraph 8 above,  
12 Respondent has suffered the following criminal convictions:

13 a. On or about January 11, 2010, Respondent was convicted of violating Vehicle Code  
14 section 14601.1, subdivision (a), driving with a suspended license, a misdemeanor, in the case of  
15 *People v. Jackie Sum* (Sup. Ct. Fresno County, 2010, No. M09923475).

16 b. On or about February 17, 2009, Respondent was convicted of violating Vehicle Code  
17 section 14601.5, subdivision (a), driving with a suspended or revoked license, a misdemeanor, in  
18 the case of *People v. Jackie Sum* (Sup. Ct. Fresno County, 2009, No. M08930031).

19 c. On or about June 23, 2008, Respondent was convicted of violating Vehicle Code  
20 section 14601.5, subdivision (a), driving with a suspended or revoked license, a misdemeanor, in  
21 the case of *People v. Jackie Sum* (Sup. Ct. Fresno County, 2008, No. M08917920).

22 (Bus. & Prof. Code, §§ 19856, & 19857, subds. (a) & (b); Cal. Code. Regs., tit. 4, §§ 12200.18,  
23 subds. (a) & (b), 12205 & 12218.11, subds. (e) [mandatory denial] & (j) [mandatory denial].)  
24  
25  
26  
27  
28

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Providing False or Misleading Information to the Bureau and Failing to Disclose Material**  
3 **Information to the Bureau)**

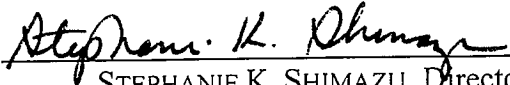
4 11. Respondent's Application is subject to denial and his registration subject to  
5 revocation or cancellation in that Respondent, under penalty of perjury, in response to question  
6 (2) in Section 4. Criminal History Information, of the Level 1 Supplemental Information portion  
7 of the Application, affirmatively and falsely, stated "No" to the question of whether or not he had  
8 been convicted of a misdemeanor in the last 10 years. As alleged in paragraph 10 above,  
9 Respondent suffered three misdemeanor convictions within that time period.<sup>3</sup>  
10 (Bus. & Prof. Code, §§ 19856, 19857, subs. (a) & (b), 19859, subs. (a) [mandatory denial] &  
11 (b) [mandatory denial] & 19866; Cal. Code. Regs., tit. 4, §§ 12200.18, subs. (a), (b) & (f), 12205  
12 & 12218.11, subs. (e) [mandatory denial], (f) [mandatory denial] & (j) [mandatory denial].)

13 **PRAYER**

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

- 16 1. Denying Respondent's Application for a third-party proposition player license;  
17 2. Revoking or cancelling Respondent's registration, number TPPL-014490; and  
18 3. Taking such other and further action as the Commission may deem appropriate.

19  
20 Dated: March 7, 2018

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

25 <sup>3</sup> Respondent's June 6, 2016 conviction, as alleged in paragraph 8 above, occurred after  
26 Respondent submitted his Application and accordingly he could not have disclosed it on his  
27 Application. However, Respondent did not proactively advise the Bureau of this conviction  
28 involving a firearm. He only provided an explanation of this conviction in response to the  
Bureau's inquiry. The conviction was discovered by the Bureau when it checked the record of  
Respondent's criminal history. (Bus. & Prof. Code, § 19866, Cal. Code. Regs., tit. 4, § 12200.18,  
subd. (f).)

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>[4]</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

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<sup>4</sup> Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,  
(commencing with section 19800), also known as the Gambling Control Act.

1 commission may condition, restrict, discipline, or take action  
2 against the license of an individual owner endorsed on the license  
3 certificate of the gambling enterprise whether or not the  
4 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  
9 associated with controlled gambling activities.

10 4. Business and Professions Code, section 19853, subdivision (a), provides:

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

15 \* \* \*

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

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

19 (a) The commission, after considering the recommendation of the  
20 chief<sup>5]</sup> and any other testimony and written comments as may be  
21 presented at the meeting, or as may have been submitted in writing to  
22 the commission prior to the meeting, may either deny the application or  
23 grant a license to an applicant who it determines to be qualified to hold  
24 the license.

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

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

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

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

<sup>5</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>6</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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27 <sup>6</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.  
28 (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, subdivision (a) provides, in  
17 part:

18 If the Executive Director determines it is appropriate, he or she  
19 may set an application for consideration at a GCA hearing in advance  
20 of a meeting pursuant to Section 12054. The Executive Director shall  
21 give notice to the applicant, pursuant to paragraph (2) subsection (c) of  
22 Section 12052, to the Office of the Attorney General, and to the  
23 Bureau no later than 60 calendar days in advance of the GCA hearing.

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

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

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

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

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<sup>7</sup> "Chapter" refers to California Code of Regulations, title 4, division 18, chapter 2.1, section 12200 et seq.



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

3 (1) Provide written notice to the registrant and the Bureau of  
4 the cancellation of the registration and the grounds thereof, and  
5 provide written notice of the cancellation to the owner, if the  
6 registrant is a supervisor, player, or other employee and to any  
7 gambling establishment in which the registrant provides  
8 proposition player services.

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

### 14 SPECIFIC STATUTORY PROVISIONS

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

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

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

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

13. Business and Professions Code, section 19857 provides:

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

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

(b) A person whose prior activities, criminal record, if any,  
reputation, habits, and associations do not pose a threat to the  
public interest of this state, or to the effective regulation and  
control of controlled gambling, or create or enhance the dangers of  
unsuitable, unfair, or illegal practices, methods, and activities in

1 the conduct of controlled gambling, or in the carrying on of the  
2 business and financial arrangements incidental thereto.

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

5 14. Business and Professions Code section 19859 provides, in part:

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

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

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

16 15. Business and Professions Code section 19866 provides:

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

22 16. California Code of Regulations, title 4, section 12200.18, provides, in part:

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

27 (a) The registrant or licensee committed, attempted to  
28 commit, or conspired to commit any acts prohibited by the Act<sup>[8]</sup>  
or this chapter.

(b) Any act or omission by the registrant that would  
disqualify 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.

\* \* \*

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<sup>8</sup> "Act" refers to the "Gambling Control Act." (Bus. & Prof. Code, § 19800 et seq.)

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

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

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

6 \* \* \*

7 (c) The requester has, within the ten (10) year period  
8 immediately preceding the submission of the request to convert,  
9 been convicted of a misdemeanor involving a firearm . . . , unless  
10 the applicant has been granted relief pursuant to Penal Code  
11 section 1203.4, 1203.4a or 1203.45, provided, however, that the  
12 granting of relief pursuant to Penal Code section 1203.4, 1203.4a  
13 or 1203.45 shall not constitute a limitation on the discretion of the  
14 Commission.

15 \* \* \*

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

18 (f) The requester would be ineligible for a state gambling  
19 license under any of the criteria set forth in Business and  
20 Professions Code section 19859, subdivisions (b), (e), or (f).

21 \* \* \*

22 (j) The applicant is ineligible based on any other provision  
23 of law.  
24  
25  
26  
27  
28