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

15 In the Matter of the Statement of Reasons for
Denial of Application for a Third-Party
16 Proposition Player Services License for:
17 **SAKADA HANG KEO**
18
19 **Respondent.**
20
21

BGC Case No.: BGC-HQ2020-00004SL
CGCC Case No: CGCC-2019-1219-12Gii
STATEMENT OF REASONS

22 Complainant alleges as follows:

23 **PARTIES**

24 1. Stephanie K. Shimazu (Complainant) brings this Statement of Reasons solely in her
25 official capacity as Director of the California Department of Justice, Bureau of Gambling Control
26 (Bureau).
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1 Respondent's Application, signed under penalty of perjury on May 28 and June 5, 2018. The
2 Application was submitted less than 10 years after the conviction, and the application form
3 requires disclosure of convictions within 10 years.

4 9. Respondent's criminal history is important to the Bureau in determining whether to
5 recommend that he be licensed and to the Commission in determining whether he is qualified for
6 licensure.

7 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) & (b), 19866; Cal.
8 Code. Regs., tit. 4, §§ 12205, 12218.11, subds. (e) & (f).)

9 **SECOND CAUSE FOR DENIAL**

10 **(Derogatory Gambling Employment History)**

11 10. Respondent's Application is subject to denial and his registration subject to
12 cancellation because on February 19, 2014, he was terminated from his position as a card dealer
13 at Livermore Casino for "poor work performance and violation of company policy, despite
14 previous warnings." Livermore Casino reported that Respondent "made careless mistakes at the
15 table and was not following proper dealing procedures."

16 12. Respondent's gambling employment history is important to the Bureau in
17 determining whether to recommend that he be licensed and to the Commission in determining
18 whether he is qualified for licensure.

19 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b); Cal. Code. Regs., tit. 4, §§ 12205,
20 12218.11, subds. (e).)

21 **THIRD CAUSE FOR DENIAL**

22 **(Non-Disclosure of Derogatory Gambling Employment History)**

23 13. Respondent's Application is subject to denial and his registration subject to
24 cancellation because on his Application, which was submitted under penalty of perjury,
25 Respondent did not disclose he was terminated from his position at Livermore Casino for poor
26 work performance and for violating company policy. Rather, Respondent represented on his
27 Application that he left Livermore Casino for medical leave. This representation was made
28

1 despite Respondent signing a Livermore Casino form acknowledging the actual reasons for his
2 termination.

3 14. Respondent's gambling employment history, as well as his explanations and
4 statements provided to the Bureau, is important to the Bureau in determining whether to
5 recommend that he be licensed and to the Commission in determining whether he is qualified for
6 licensure.

7 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) & (b), 19866; Cal.
8 Code. Regs., tit. 4, §§ 12205, 12218.11, subds. (e) & (f).)

9 **FOURTH CAUSE FOR DENIAL**

10 **(Untrue or Misleading Statement About Derogatory Gambling Employment History)**

11 14. Respondent's Application is subject to denial and his registration subject to
12 cancellation because on his Application and in a communication with the Bureau he made an
13 untrue or misleading statement about the reason he was terminated from his position at Livermore
14 Casino. Respondent wrote on his Application that he left his position at Livermore Casino for
15 medical leave purposes, but in fact he was terminated due to poor work performance and for
16 violating company policy. When the Bureau asked him about this discrepancy on his
17 Application, he told the Bureau that he had a serious health issue that caused him to make
18 mistakes unintentionally—a statement still at odds with his explanation that he left Livermore
19 Casino for medical leave.

20 15. Respondent's gambling employment history, as well as his explanations and
21 statements provided to the Bureau, is important to the Bureau in determining whether to
22 recommend that he be licensed and to the Commission in determining whether is qualified for
23 licensure.

24 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) & (b), 19866; Cal.
25 Code. Regs., tit. 4, §§ 12205, 12218.11, subds. (e) & (f).)

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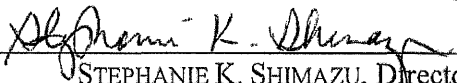
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PRAYER

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

1. Denying Respondent's Application for a third-party proposition player license;
2. Cancelling Respondent's registration, number TPPL-021493; and
3. Taking such other and further action as the Commission may deem appropriate.

Dated: May 7, 2020


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

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APPENDIX A

JURISDICTION, PROCEDURE, AND LICENSING

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

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

2. Business and Professions Code section 19823 provides:

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

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

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

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

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

The commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter,^[2] 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

² “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
3 enterprise whether or not the commission takes action against the
4 license of the gambling enterprise.

5 * * *

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

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

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

14 * * *

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

- 17 5. Business and Professions Code section 19870 provides:

18 (a) The commission, after considering the recommendation of the
19 chief³ 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

³ "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^[4] 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.

27 ⁴ "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, 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.

(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
Bureau report, if any, and the results of the Bureau's background
6 investigation, and the basis for any recommendation, if the Bureau
filed one with the Commission according to Business and Professions
7 Code section 19868, to enable the Commission to make an informed
decision on whether the applicant has met his, her, or its burden of
8 proof. The complainant may but is not required to recommend or seek
any particular outcome during the evidentiary hearing, unless it so
9 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
11 under the Act.

12 (j) The applicant may choose to represent himself, herself, or
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.
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1 11. California Code of Regulations, title 4, section 12205 provides:

2 (a) Any regular registration issued in accordance with this
3 chapter⁵ 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.

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

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

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

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

17 (a) As expeditiously as possible in light of available program
18 resources, the Bureau shall summon persons registered as primary
19 owners, owners, supervisors, players, and other employees for the
20 purpose of applying for licenses under this chapter. The registration
21 of any registrant that fails or refuses to submit the applicable
22 Application for Third Party Proposition Player Services License for
23 Business Entities and Owners (BGC-433 (Rev. 10/17)) or Application
24 for Third-Party Proposition Player Services License for Supervisors,
25 Players or Other Employees (BGC-434 (Rev. 10/17)), which are
26 hereby incorporated by reference, including any fees to the Bureau
27 within 30 days of receiving a summons shall expire by operation of
28 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

27 ⁵ "Chapter" refers to California Code of Regulations, title 4, division 18, chapter 2.1,
28 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:

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

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

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

26 (1) A completed Application for Third Party Proposition
27 Player Services License for Business Entities and Owners (BGC-
28 433) 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.

28 15. 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 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 politics of this state relating to licensing, registration, and control of
18 gambling.

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

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

23 * * *

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

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