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

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

CGCC Case No. GCADS-TPPL-022125

BGC Case No. BGC-HQ2018-00018SL

15 **DAVID HARVEY GERRITSON**
16 [REDACTED]

STATEMENT OF REASONS

17
18 **Respondent.**

19
20
21 Complainant alleges as follows:

22 **PARTIES**

23 1. Stephanie K. Shimazu (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. On November 16, 2018, the Bureau received an Application for Third-Party
27 Proposition Player Services License for Supervisor, Player or Other Employee, dated November
28 8, 2018, and a Level I Supplemental Information, dated October 21, 2018 (collectively,

1 Application), from David Harvey Gerritson (Respondent) to allow for his employment as a third-
2 party proposition player (prop-player) for Knighted Ventures, LLC (Knighted Ventures), a
3 registered third-party proposition player services provider, registration number TPPP-000109.¹

4 3. Respondent has been employed as a prop-player by Knighted Ventures since October
5 21, 2018. On or about October 16, 2018, the California Gambling Control Commission
6 (Commission) issued Respondent a registration, number TPPL-022125, as a prop-player for this
7 employment. Respondent's registration expired on July 1, 2020.

8 4. On or about March 10, 2020, the Bureau submitted a Third-Party Player Background
9 Investigation Report to the Commission, in which it recommended that Respondent's Application
10 be denied.

11 5. On or about May 5, 2020, the Commission's Deputy Director of the Licensing
12 Section referred consideration of Respondent's Application to an evidentiary hearing, which is to
13 be held pursuant to California Code of Regulations, title 4, section 12060.²

14 6. On or about May 20, 2020, Respondent submitted a Notice of Defense.

15 **BURDEN OF PROOF**

16 7. Respondent has the burden of proving his qualifications to receive a license.
17 (Bus. & Prof. Code, § 19856, subd. (a); Cal. Code. Regs., tit. 4, § 12060, subd. (i).)

18 **FIRST CAUSE FOR DENIAL**

19 **(Disqualification – Conviction of Crime of Moral Turpitude)**

20 8. Respondent's Application is subject to denial in that on or about April 25, 2013,
21 Respondent was convicted of violating Penal Code section 594, subdivisions (a) and (b)(1),
22 vandalism, a misdemeanor and crime of moral turpitude,³ in the case of *People v. David*

23 ¹ Respondent was required to convert his registration to a license and submit an
24 application for such licensure pursuant to California Code of Regulations, title 4, sections
25 12205.1 and 12218 because Knighted Ventures was summoned, on February 1, 2013, to submit
an application to convert its registration into a license.

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

27 ³ See *People v. Campbell* (1994) 23 Cal.App.4th 1488 (felony vandalism is a crime of
28 moral turpitude). The distinction between felony and misdemeanor vandalism arises from the
amount of damage done, rather than from any difference in the mens rea. (Pen. Code, § 594.)

1 *Gerritson* (Super. Ct. Santa Clara County, 2012, No. F1242784). Respondent's criminal
2 conviction occurred less than 10 years prior to the submission of his Application, and he has not
3 been provided relief from that criminal conviction pursuant to Penal Code sections 1203.4,
4 1203.4a, or 1203.45.

5 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) [mandatory denial] &
6 (c) [mandatory denial]; Cal. Code. Regs., tit. 4, §§ 12200.18, subd. (b), 12218.11, subds. (c)
7 [mandatory denial] & (e) [mandatory denial].)

8 **SECOND CAUSE FOR DENIAL**

9 **(Unqualified – Multiple Convictions of Misdemeanor Crimes)**

10 9. Respondent's Application is subject to denial in that, in addition to the conviction
11 identified in paragraph 8 above, on or about October 6, 2014, Respondent was convicted of
12 violating Vehicle Code sections 23152, subdivision (b), driving under the influence, and 14601.1,
13 subdivision (a), driving on as suspended license, both misdemeanors, in the case of *People v.*
14 *David Gerritson* (Super. Ct. Merced County, 2014, No. CRL011240).

15 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b); Cal. Code. Regs., tit. 4, §§ 12200.18,
16 subd. (b), 12218.11, subd. (e) [mandatory denial].)

17 **THIRD CAUSE FOR DENIAL**

18 **(Unqualified – Failure to Disclose Misdemeanor Crimes)**

19 10. Respondent's Application is subject to denial in that Respondent failed to disclose on his
20 Application the vandalism conviction identified in paragraph 8 above and the driving on a
21 suspended license conviction, identified in paragraph 9 above.

22 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) [mandatory denial] &
23 (b) [mandatory denial]; Cal. Code. Regs., tit. 4, §§ 12200.18, subd. (b), 12218.11, subds. (e)
24 [mandatory denial] & (f) [mandatory denial].)

25 **PRAYER**

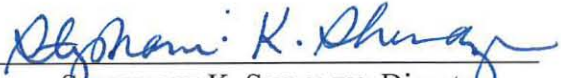
26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing the Commission issue a decision:

- 28 1. Denying Respondent's Application for a third-party proposition player license; and

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

Dated: August 25, 2020


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

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APPENDIX A
JURISDICTION

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 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,^[4] 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

⁴ “Chapter” refers to Business and Professions Code, division 8, chapter 5 (commencing with section 19800), also known as the Gambling Control Act.

1 individual owner endorsed on the license certificate of the gambling
2 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 4. Business and Professions Code, section 19853, subdivision (a), provides, in part:

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

10 * * *

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

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

13 (a) The commission, after considering the recommendation of the
14 chief^{5]} and any other testimony and written comments as may be
presented at the meeting, or as may have been submitted in writing to
15 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
16 hold the license.

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

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

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

22 (e) A decision of the commission denying a license or approval,
23 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
24 Code of Civil Procedure. Section 1094.5 of the Code of Civil
Procedure shall not apply to any judicial proceeding described in the
25 foregoing sentence, and the court may grant the petition only if the
26 court finds that the action of the commission was arbitrary and
capricious, or that the action exceeded the commission's jurisdiction.

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28 ⁵ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 6. 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 her or his own behalf,
18 he or he 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's⁶ 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.

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

The commission shall establish reasonable criteria for, and require
the licensure and registration of, any person or entity that provides
proposition player services to gambling establishments pursuant to this
section, including owners, supervisors, and players The
commission may impose licensing requirements, disclosures,
approvals, conditions, or limitations as it deems necessary to protect

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

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the integrity of controlled gambling in this state

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

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

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

(a) If the Executive Director determines it is appropriate, he or he may set an application for consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. 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 90 calendar days in advance of the GCA hearing. The Executive Director's determination will be based on information contained in the Bureau's report or other appropriate sources including, without limitation, a request from the Bureau or applicant as well as the Commission's operational considerations. The Commission retains the authority to refer the matter to an APA 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 future hearing dates. The Executive Director or Commission may approve the request.

(e) The complainant shall provide to the applicant, at least 45 calendar days prior to the GCA hearing, and the applicant shall provide to the complainant, at least 30 calendar days prior to the GCA

1 hearing, the following items.

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

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

6 (3) Reports or statements of parties and witnesses, if
7 available; and

8 (4) All other written comments or writings containing
9 relevant evidence.

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

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

20 (A) Evidentiary issues;

21 (B) Witness and exhibit lists;

22 (C) Alterations in the Bureau recommendation;

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

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

27 (2) The GCA hearing need not be conducted according to
28 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) Prohibit the testimony of any witness or the introduction
of any documentary evidence that has not been disclosed pursuant
to subsection (e); or

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

1 (h) The complainant shall present all facts and information in the
2 Bureau report, if any, and the results of the Bureau's background
3 investigation, and the basis for any recommendation, if the Bureau
4 filed one with the Commission according to Business and Professions
5 Code section 19868, to enable the Commission to make an informed
6 decision on whether the applicant has met her, his, or its burden of
7 proof. The complainant may but is not required to recommend or seek
8 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
11 her, his, or its qualifications to receive any license or other approval
12 under the Act.

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

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

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

27 (m) At the conclusion of the evidentiary hearing, the members of
28 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.

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

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

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

(a) Any regular registration issued in accordance with this
chapter⁷ 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

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

1 the holder's qualification for registration, or has supplied information
2 in the registration application that is untrue or misleading as to a
material fact pertaining to the criteria for issuance of registration.

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

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

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

12 12. California Code of Regulations, title 4, section 12218.1 provides:

13 After a primary owner is licensed, the summons previously issued to
14 that primary owners by the Bureau shall be deemed to apply to all
subsequent registrants who become affiliated with that primary owner
subsequent to licensure.

15 **SPECIFIC STATUTORY PROVISIONS**

16 13. Business and Professions Code section 19856 provides:

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

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

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

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14. 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.

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

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

- (a) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.
- (b) Failure of the applicant to provide information, documentation, and assurances required by this chapter or requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

* * *

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

16. Business and Professions Code section 19866 provides:

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

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17. 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:

* * *

(c) The requester has, within the ten (10) year period immediately preceding the submission of the request to convert, been convicted of a misdemeanor involving a firearm or other deadly weapon, gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) or Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code, violations of the Act, or dishonesty or moral turpitude, unless the applicant has been granted relief pursuant to Penal Code section 1203.4, 1203.4a, or 1203.45, provided, however, that the granting of relief pursuant to Penal Code section 1203.4, 1203.4a, or 1203.45 shall not constitute a limitation on the discretion of the Commission.

* * *

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

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

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

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

* * *

(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.