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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Statement of Reasons for Denial of Application for a Third Party Proposition Player Services Player License for:
CHRISTINE AMBER WERNER


BGC Case No. BGC-HQ2021-00024SL
CGCC Case No: CGCC-2021-0506-7B

STATEMENT OF REASONS

Respondent.

Hearing Date: December 14, 2021
Hearing Time: 10:00 a.m.
Hearing Place: 2399 Gateway Oaks, Ste. 100,
Sacramento, CA 95833

This hearing will be conducted by means of video conferencing on Zoom. The Zoom meeting code is 285 757 8614

Complainant alleges as follows:

PARTIES

1. Nathan DaValle (Complainant) brings this Statement of Reasons solely in his official capacity as Acting Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

1 Regulations, title 4, section 12060.³ On May 11, 2021, the Commission notified Respondent of
2 its action upon the Application and provided Respondent with a Notice of Defense form (CGCC-
3 CH1-03).

4 8. The Bureau subsequently received Respondent's Notice of Defense dated May 24,
5 2021, which indicated that Respondent was not at that time represented by an attorney, and
6 requested that written communications be provided to Respondent via email.

7 9. On July 30, 2021, Respondent was notified via email that the evidentiary hearing
8 would be held before the Commission starting at 10:00 a.m., on December 14, 2021, and that the
9 meeting would be conducted via Zoom.⁴

10 10. On October 21, 2021, Melissa Ezaki informed the Commission and the Bureau's
11 counsel that the Respondent was no longer employed by L.E. Gaming, Inc. The Notification of
12 Employee Separation form received by the Bureau states that Ms. Werner resigned from her
13 employment with L.E. Gaming, Inc.

14 **BURDEN OF PROOF**

15 11. Respondent has the burden of proving that she is qualified to receive a license. (Bus.
16 & Prof. Code, § 19856, subd. (a).)

17 **CAUSE FOR DENIAL**

18 **(Failure To Reveal Facts Material to Qualification and**
19 **Supplying Untrue or Misleading Information)**

20 12. Respondent's Application is subject to denial because she failed to reveal facts
21 material to qualification and supplied information that is untrue or misleading as to a material fact
22 pertaining to the qualification criteria, in that she failed to disclose her termination from
23 employment with Blackstone Gaming, LLC, and provided the Bureau with misleading
24 information regarding her termination by Blackstone Gaming, LLC.

25 (Cal. Code Regs., tit. 4, §§ 12040, subds. (a)(1) & (a)(2) [mandatory denial], 12122, subd. (d),

26 ³ The statutes and regulations applicable to this Statement of Reasons are quoted in
27 pertinent part in Appendix A.

28 ⁴ This notice was also provided to Melissa Ezaki by email.

1 12124, subd. (a)(2), 12128, subds. (a)(1) & (a)(2) [mandatory denial]; Bus. & Prof. Code, §§
2 19857, 19859, subd. (b), 19866.)

3 **PRAYER**

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

- 6 1. Denying Respondent's Application for licensure as a Third Party Proposition Player
7 Services Player;
8 2. Voiding Respondent's registration number TPPL-022562; and
9 3. Taking such other and further action as the Commission may deem appropriate.

10
11 Dated: October 27, 2021



NATHAN DA VALLE, Acting Director
Bureau of Gambling Control
California Department of Justice
Complainant

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1 APPENDIX A

2 Business and Professions Code

- 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
12 not issued to, or held by, unqualified or disqualified persons,
13 or by persons are conducted in a manner that is inimical to
14 the public 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
22 a person who is found to be unqualified pursuant to the criteria set
23 forth in Section 19857, and "disqualified person" means a person who
24 is 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
29 this chapter,⁵ including, without limitation, the power to do all of the
30 following:

31 * * *

32 (b) For any cause deemed reasonable by the commission, deny
33 any application for a license, permit, or approval provided for in this
34 chapter or regulations adopted pursuant to this chapter, limit,
35 condition, or restrict any license, permit, or approval, or impose any
36 fine upon any person licensed or approved. The commission may
37 condition, restrict, discipline, or take action against the license of an

38 ⁵ "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 19856 provides, in part:

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

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

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

17 5. Business and Professions Code, section 19857 provides:

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

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

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

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

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

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

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

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

11 7. Business and Professions Code section 19866 provides:

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

17 8. Business and Professions Code, section 19870 provides:

18 (a) The commission, after considering the recommendation of
19 the chief⁶ 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

⁶ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 foregoing sentence, and the court may grant the petition only if the
2 court finds that the action of the commission was arbitrary and
 capricious, or that the action exceeded the commission's jurisdiction.

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

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

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

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

9 (A) To call and examine witnesses.

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

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

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

15 (E) To offer rebuttal evidence.

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

18 (4) The meeting need not be conducted according to
19 technical rules relating to evidence and witnesses. Any relevant
20 evidence may be considered, and is sufficient in itself to support
21 a finding, if it is the sort of evidence on which responsible
 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.

22 (b) Nothing in this section confers upon an applicant a right to
23 discovery of the department's⁷ investigative reports or to require
24 disclosure of any document or information the disclosure of which is
25 otherwise prohibited by any other provision of this chapter.

26
27 ⁷ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
28 (h).)

1 10. Business and Professions Code section 19984 provides, in part:

2 (b) The commission shall establish reasonable criteria for, and
3 require the licensure and registration of, any person or entity that
4 provides proposition player services at gambling establishments
pursuant to this section, including owners, supervisors, and players.

5 **California Code of Regulations, Title 4**

6 11. California Code of Regulations, title 4, section 12040 provides, in part:

7 (a) An application for an initial or renewal license:

8 (1) Will be denied if the Commission finds that the applicant
9 has not satisfied the requirements of Business and Professions Code
section 19857; or,

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

13 12. California Code of Regulations, title 4, section 12054, provides, in part:

14 (a) At a non-evidentiary hearing meeting, the Commission may
15 take, but is not limited to taking, one of the following actions:

16 * * *

17 (2) Elect to hold an evidentiary hearing in accordance with
18 Section 12056 and, when for a renewal application, issue an
interim renewal license pursuant to Section 12035. The
19 Commission shall identify those issues for which it requires
20 additional information or consideration related to the applicant's
suitability.

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

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

25
26 14. California Code of Regulations, title 4, section 12060, provides:

27 (a) If the Executive Director determines it is appropriate, he or
28 she may set an application for consideration at a GCA hearing in
advance of a meeting pursuant to Section 12054. The Executive

1 Director shall give notice to the applicant, pursuant to paragraph (2)
2 subsection (c) of Section 12052, to the Office of the Attorney General,
3 and to the Bureau no later than 90 calendar days in advance of the
4 GCA hearing. The Executive Director's determination will be based on
5 information contained in the Bureau's report or other appropriate
6 sources including, without limitation, a request from the Bureau or
7 applicant as well as the Commission's operational considerations. The
8 Commission retains the authority to refer the matter to an APA
9 hearing pursuant to subsection (a) of Section 12056 or hear the matter
10 at a Section 12054 meeting if the Commission deems it appropriate.

11 (b) When the Commission has elected to hold a GCA hearing,
12 the Executive Director shall give notice to the applicant, pursuant to
13 paragraph (2) subsection (c) of Section 12052, to the Office of the
14 Attorney General, and to the Bureau no later than 60 calendar days in
15 advance of the GCA hearing.

16 (c) The presiding officer shall have no communication with the
17 Commission or Commission staff upon the merits, or upon
18 information or documents related to the application prior to the
19 evidentiary hearing. The Executive Director shall designate a
20 presiding officer which shall be:

- 21 (1) A member of the Commission's legal staff; or,
- 22 (2) An Administrative Law Judge.

23 (d) The applicant or the complainant, or the applicant and the
24 complainant, may request a continuance in writing to the Executive
25 Director stating the reason for the continuance and any proposed
26 future hearing dates. The Executive Director or Commission may
27 approve the request.

28 (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
hearing, the following items:

- 29 (1) A list of potential witnesses with the general subject of
30 the testimony of each witness;
- 31 (2) Copies of all documentary evidence intended to be
32 introduced at the hearing and not previously provided;
- 33 (3) Reports or statements of parties and witnesses, if
34 available; and
- 35 (4) All other written comments or writings containing
36 relevant evidence.

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

1 (1) In advance of the GCA hearing, upon a motion of a
2 party or by order of the presiding officer, the presiding officer
3 may conduct a pre-hearing conference, either in person, via
4 teleconference, or by email exchange, subject to the presiding
5 officer's availability and shall issue a pre-hearing order if
6 appropriate or requested by either party. The pre-hearing
7 conference and order may address the following:

8 (A) Evidentiary issues;

9 (B) Witness and exhibit lists;

10 (C) Alterations in the Bureau recommendation;

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

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

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

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

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

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

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

(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.

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

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

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

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

18 15. California Code of Regulations, title 4, section 12122 provides, in part:

19 (a) A temporary license will be associated with an application
20 for an initial license.

21 (b) A temporary license issued in accordance with this article
22 does not create a property right in its holder.

23 * * *

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

27 (e) The denial of an application for a temporary license or the
28 cancellation of a temporary license will not suspend the processing
and review of the initial application.

16. California Code of Regulations, title 4, section 12124 provides, in part:

(a) The Executive Director will issue a temporary employee
category license if all of the following requirements are met;

* * *

(2) Neither the application in its entirety, nor the results of the
investigation of the applicant reported by the Bureau to the
Commission up to the date of issuance of the temporary license,
discloses any of the mandatory grounds for disqualification specified
under Section 12040.

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17. California Code of Regulations, title 4, section 12128 provides, in part:

(a) Any temporary license issued in accordance with this article will be cancelled or conditioned, as provided in subsection (a) and (b), if at any time, any of the following apply:

(1) The Commission determines that it has received reliable information that the holder of the temporary license is ineligible under paragraphs (2) or (3) subsection (a) of Section 12124, has failed to reveal any fact material to the holder's qualification for a temporary license, or has supplied information to the Bureau or Commission that is untrue or misleading as to a material fact pertaining to the criteria for issuance of a temporary license.

(2) The applicant's initial license application is referred by a vote of the Commission to an evidentiary hearing, and the Commission directs the Executive Director to cancel or condition the temporary license.

18. California Code of Regulations, title 4, section 12130 provides, in part:

(d) A TPPPS registration includes all conditions of a temporary license provided in subsections (a), (b), and subsections (d) and (e) of Section 12122.