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1 ROB BONTA
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 T. MICHELLE LAIRD
Supervising Deputy Attorney General
4 LISA L. FREUND
Deputy Attorney General
5 State Bar No. 249174
6 600 West Broadway, Suite 1800
San Diego, CA 92101
7 P.O. Box 85266
San Diego, CA 92186-5266
8 Telephone: (619) 738-9569
9 Fax: (619) 645-2581
E-mail: Lisa.Freund@doj.ca.gov
Attorneys for Complainant

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

14
15 In the Matter of the Statement of Reasons for
16 Denial of Application for a TPPPS Worker
License for:

17 **XIAOJUN CHEN**

18 

19 (TPWK-002354)

20 **Respondent.**

CGCC Case No.: CGCC-2022-0623-7E

BGC Case No.: BGC-HQ2022-00014SL

STATEMENT OF REASONS

21
22 Complainant alleges as follows:

23 **PARTIES**

24 1. Yolanda Morrow (Complainant) submits this Statement of Reasons for denial of an
25 application for a Third-Party Proposition Player Services Worker License solely in her official
26 capacity as Director of the California Department of Justice, Bureau of Gambling Control
27 (Bureau).

1 2. Progressive Gaming, LLC, a registered third-party proposition player services
2 provider, registration number TPPP-000154, has employed Xiaojun Chen (Respondent) as a
3 third-party proposition player services worker (third-party worker) since approximately
4 September 2021.

5 **THE APPLICATION AND THIS PROCEEDING**

6 3. On or about September 24, 2021, the Bureau received an initial Application for an
7 Employee Category License, together with a Commission Work Permit or Third-Party
8 Proposition Player Services Worker Supplemental Information form (collectively Application)
9 from Respondent. The Application was to allow for his continued employment as a third-party
10 worker for Progressive Gaming, LLC.

11 4. On October 14, 2021, Respondent was issued a temporary license, number TPWK-
12 002354, by the Commission, which expires September 30, 2023.

13 5. In March 2022, the Bureau submitted a Third-Party Worker Investigation Report,
14 Level III, to the Commission recommending that Respondent’s Application be denied.

15 6. At its June 23, 2022 meeting, the Commission referred consideration of Respondent’s
16 Application to an evidentiary hearing that is to be held pursuant to California Code of
17 Regulations, title 4, section 12054, subdivision (a)(4).¹

18 7. On or about June 24, 2022, the Commission notified Respondent of the
19 Commission’s decision to refer the matter to an evidentiary hearing. Included with that written
20 notice was a Notice of Defense form for Respondent to complete and return.

21 8. On or about July 19, 2022, Respondent submitted his completed Notice of Defense
22 form.

23 **JURISDICTION AND BURDEN OF PROOF**

24 9. The Commission has jurisdiction over the licensing of all persons and things having
25 to do with the operation of gambling establishments. (Bus. & Prof. Code, §§ 19811, subd. (b),
26 19850.) The Commission’s responsibilities include assuring that licenses are not issued to

27 ¹ The statutes and regulations applicable to this Statement of Reasons are quoted in
28 pertinent part in Appendix A. The full text of the Gambling Control Act (GCA) is found at
Business and Professions Code section 19800 et seq.

1 unqualified or disqualified persons and that no unqualified or disqualified person is materially
2 involved with a licensed gambling operation. (Bus. & Prof. Code, § 19823, subd. (a).) The
3 Commission has all powers necessary and proper to carry out the Act's policies and purposes,
4 including the powers to take actions to ensure that no ineligible, unqualified, disqualified, or
5 unsuitable persons are associated with controlled gambling activities. (Bus. & Prof. Code, §
6 19824, subds. (b) & (d).)

7 10. Respondent has the burden of proving that he is suitable to hold a Third-Party
8 Proposition Player Services Worker License. (Bus. & Prof. Code, § 19856, subd. (a).)

9 **FIRST CAUSE FOR DENIAL**

10 **(Unqualified for Licensure – Good Character, Honesty, and Integrity –
11 Providing Untrue or Misleading Information)**

12 11. Respondent's Application is subject to denial, and his temporary license is subject to
13 cancellation, because Respondent, under penalty of perjury, failed to disclose a conviction of a
14 misdemeanor offense on his Application. Specifically, Respondent failed to disclose that he was
15 convicted of violating Penal Code section 242, battery, a misdemeanor, and failed to disclose that
16 he was on probation as a result of the conviction. By not disclosing this information, Respondent
17 failed to disclose required information that is material to his Application.

18 12. Respondent also provided information to the Bureau about the circumstances
19 surrounding the battery that conflicted with the information that he provided to the police officer
20 that investigated the battery.

21 13. These actions demonstrate that Respondent's license is subject to mandatory denial
22 because he cannot establish he is a person of good character, honesty, and integrity, and because
23 he poses a threat to the effective regulation and control of controlled gambling.
24 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subds. (a) and (b) [mandatory denial], 19866; Cal.
25 Code Regs., tit. 4, §§ 12040, subds. (a)(1), (2) [mandatory denial].)

26 **SECOND CAUSE FOR DENIAL**

27 **(Misdemeanor Convictions – Unsuitable for Licensure)**

1 14. Respondent's Application is further subject to denial, and his temporary license is
2 subject to cancellation, because Respondent has engaged in illegal behavior and shown a lack of
3 regard for the health, safety, and welfare of others, which demonstrates that he may pose a threat
4 to the effective regulation and control of gambling.


5 15. On or about June 7, 2021, Respondent was convicted of violating Penal Code section
6 242, battery, a misdemeanor, in the case of *People of the State of California v. Xiaojun Chen*
7 (Super. Ct. Los Angeles County, Case No. 9AM04699).
8 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subds. (a) and (b); Cal. Code. Regs., tit. 4, §§
9 12040, subds. (a)(1), (2).)

10 **PRAYER**

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

- 13 1. Denying Respondent's Application for Third-Party Proposition Player Services
14 Worker License;
- 15 2. Cancelling Respondent's temporary license, number TPWK-002354; and
- 16 3. Taking such other and further action as the Commission may deem appropriate.

17
18 Dated: October 03, 2022



YOLANDA MORROW, Director
Bureau of Gambling Control
California Department of Justice

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23 Statement of Reasons llf.tmlYM.pc
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1 **APPENDIX A – STATUTORY AND REGULATORY PROVISIONS**

2 **JURISDICTION**

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

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

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

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

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

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

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

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

18 The commission shall have all powers necessary and proper to enable it fully and
19 effectually to carry out the policies and purposes of this chapter,^[2] including, without
20 limitation, the power to do all of the following:

20 * * *

21 (b) For any cause deemed reasonable by the commission, deny any application
22 for a license, permit, or approval provided for in this chapter or regulations
23 adopted pursuant to this chapter, limit, condition, or restrict any license, permit,
24 or approval, or impose any fine upon any person licensed or approved. The
25 commission may condition, restrict, discipline, or take action against the license
26 of an individual owner endorsed on the license certificate of the gambling
27 enterprise whether or not the commission takes action against the license of the
28 gambling enterprise.

25 * * *

27 ² “Chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing
28 with section 19800), also known as the Gambling Control Act.

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

4 4. Business and Professions Code, section 19850 provides:

5 Every person who, either as owner, lessee, or employee, whether for hire or not,
6 either solely or in conjunction with others, deals, operates, carries on, conducts,
7 maintains, or exposes for play any controlled game in this state, or who receives,
8 directly or indirectly, any compensation or reward, or any percentage or share of the
9 money or property played, for keeping, running, or carrying on any controlled game
10 in this state, shall apply for and obtain from the commission, and shall thereafter
11 maintain, a valid state gambling license, key employee license, or work permit, as
12 specified in this chapter. In any criminal prosecution for violation of this section, the
13 punishment shall be as provided in Section 337j of the Penal Code.

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

15 (a) The commission, after considering the recommendation of the chief³] and any
16 other testimony and written comments as may be presented at the meeting, or as may
17 have been submitted in writing to the commission prior to the meeting, may deny the
18 application, grant a license to an applicant who it determines to be qualified to hold
19 the license, or refer the application to an evidentiary hearing.

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

23 (c) If, during a meeting, the commission denies an application, denies approval, or
24 approves with limits, restrictions, or conditions, the action shall be stayed for a period
25 of 30 days after the meeting, during which the applicant may request an evidentiary
26 hearing. If the applicant does not file a request for an evidentiary hearing within 30
27 days, the action of the commission taken at the meeting is final. If the applicant
28 waives the right to hearing and assents to the action of the commission in writing,
upon receipt of the waiver by the commission, the action shall no longer be stayed. If
the applicant files a timely request for an evidentiary hearing, the action shall be
vacated and the application shall be reviewed de novo at the evidentiary hearing.

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

(e) All proceedings relating to an application at a meeting of the commission or at an
evidentiary hearing shall be recorded stenographically or by audio or video recording.

(f) A decision of the commission after an evidentiary hearing, 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 does not apply to any
judicial proceeding held to consider that petition, and the court may grant the
petition only if the court finds that the action of the commission was arbitrary and
capricious, or that the action exceeded the commission's jurisdiction.

³ "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) An evidentiary hearing described in Section 19870 shall be conducted in
3 accordance with regulations of the commission and as follows:

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

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

6 (A) To call and examine witnesses.

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

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

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

12 (E) To offer rebuttal evidence.

13 (3) If the applicant does not testify on their own behalf, the applicant may
14 be called and examined as if under cross-examination.

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

22 (b) This section does not confer upon an applicant a right to discovery of the
23 department's⁴ investigative reports or to require disclosure of any document or
24 information the disclosure of which is otherwise prohibited by any other provision of
25 this chapter.

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

28 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. . . .

27 ⁴ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
28 (h).)

1 8. California Code of Regulations, title 4, section 12060 provides, in part:

2 (a) If the Executive Director determines it is appropriate, he or she may set an
3 application for consideration at a GCA hearing in advance of a meeting pursuant to
4 Section 12054. The Executive Director will give notice to the applicant, pursuant to
5 paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General,
6 and to the Bureau no later than 90 calendar days in advance of the GCA hearing. The
7 Executive Director's determination will be based on information contained in the
8 Bureau's report or other appropriate sources including, without limitation, a request
9 from the Bureau or applicant as well as the Commission's operational considerations.

10 (b) When a GCA hearing is elected pursuant to Section 12056, subsection (a), the
11 Executive Director will give notice to the applicant, pursuant to paragraph (2)
12 subsection (c) of Section 12052, to the Office of the Attorney General, and to the
13 Bureau no later than 60 calendar days in advance of the GCA hearing.

14 * * *

15 **SPECIFIC STATUTORY PROVISIONS**

16 9. Business and Professions Code section 19856 provides:

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

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

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

10. 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 as provided in
2 this chapter.

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

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

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

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

13 * * *

14 12. Business and Professions Code section 19866 provides:

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

19 13. California Code of Regulations, title 4, section 12040, subdivisions (a)(1) and (a)(2),
20 provide:

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

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

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

26 14. California Code of Regulations, title 4, section 12054, subdivision (a)(4) provides:

27 (a) At a Commission meeting, the Commission may take, but is not limited to taking,
28 one of the following actions:

* * *

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

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15. California Code of Regulations, title 4, section 12122, subdivision (d), provides:

Upon issuance or denial of a license or Commission work permit by the Commission, the temporary license will become void and cannot be used thereafter.

16. Penal Code, section 242, provides:

A battery is any willful and unlawful use of force or violence upon the person of another.

THIRD-PARTY PROPOSITION PLAYER PROVISIONS

17. 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 at 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 the integrity of controlled gambling in this state . . .

18. California Code of Regulations, title 4, section 12130, subdivision (d), provides:

A TPPPS [Third-Party Proposition Player Services] registration includes all conditions of a temporary license provided in subsections (a), (b), and subsections (d) and (e) of Section 12122.

19. California Code of Regulations, title 4, section 12270, subdivisions (b)(8) and (b)(9), provide:

(b) . . .
* * *

(8) That proposition player services must be provided in the gambling establishment only in compliance with laws and regulations pertaining to controlled gambling.

(9) That proposition player services may be provided only by authorized players with current licensing under Chapter 2.