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 9 Gambling Control*

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

13  
 14 IN THE MATTER OF THE STATEMENT OF  
 REASONS FOR DENIAL OF APPLICATION FOR A  
 15 THIRD-PARTY PROPOSITION PLAYER SERVICES  
 WORKER LICENSE FOR:

16  
 17 **NOE PAUIAGUA RIVAS**

18 Respondent.

Case No. CGCC-2022-0823-10Aii

**STATEMENT OF REASONS**

Hearing Date: March 21, 2023  
 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.**

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 22 Complainant alleges as follows:

23 **PARTIES**

24 1. Yolanda Morrow (Complainant) brings this Statement of Reasons for Denial of  
 25 Application for a Third-Party Proposition Player Services Worker License solely in her official  
 26 capacity as the Director of the California Department of Justice, Bureau of Gambling Control  
 27 (Bureau).  
 28

1           2.     Blackstone Gaming, LLC (Blackstone), a licensed third-party proposition player  
2 services provider, has employed Noe Paiuagua Rivas (Respondent) since approximately  
3 November 2021. On or about November 19, 2021, the California Gambling Control Commission  
4 (Commission) issued third-party proposition player worker temporary license number TPWK-  
5 002834 to Respondent. The temporary license expires on October 31, 2023.

6                                   **THE APPLICATION AND THIS PROCEEDING**

7           3.     On or about November 9, 2021, the Bureau received an initial Application for  
8 Employee Category License and Commission Work Permit or TPPPS Worker: Supplemental  
9 Information (Application) from Respondent. The Application is to allow for Respondent’s  
10 employment as a third-party worker for Blackstone.

11          4.     On or about June 22, 2022, the Bureau submitted a Third-Party Worker Initial  
12 Background Investigation Report, Level III, to the Commission recommending that Respondent’s  
13 Application be denied.

14          5.     At its August 23, 2022 meeting, the Commission referred consideration of  
15 Respondent’s Application to an evidentiary hearing to be conducted pursuant to Business and  
16 Professions Code sections 19856, 19857, and 19859, and California Code of Regulations, title 4,  
17 section 12054, subdivision (a)(4).<sup>1</sup>

18          6.     On or about September 26, 2022, Respondent submitted his Notice of Defense.

19                                   **BURDEN OF PROOF**

20          7.     Respondent has the burden of proving her qualifications to receive a license.  
21 (Bus. & Prof. Code, § 19856, subd. (a).)

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27                   \_\_\_\_\_  
28                   <sup>1</sup> The statutes and regulations applicable to this Statement of Reasons are quoted in pertinent  
part in Appendix A. The full text of the Gambling Control Act is contained in Business and  
Professions Code section 19800 et seq.

1 **FIRST CAUSE FOR DENIAL**

2 **(Failure to Accurately and Honestly**  
3 **Disclose Required Material Information)**

4 8. Respondent's Application is subject to denial and his temporary license voided  
5 because Respondent, under penalty of perjury, failed to disclose on his Application that, on  
6 February 1, 2017, the Los Angeles County Superior Court convicted Respondent of violating  
7 Vehicle Code section 23152, subdivision (b), driving under the influence (DUI) with a blood  
8 alcohol level of 0.08 percent or higher, a misdemeanor. Respondent received a sentenced of three  
9 years of probation, 11 days community labor, a First Offender Program, Mothers Against Drunk  
10 Driving (MADD) Victim Impact Program (VIP), Alcoholics Anonymous, a fine, and restitution.  
11 The sentence was suspended. Respondent did not disclose the conviction on the Application  
12 received by the Bureau on or about November 9, 2021.

13 9. Respondent's Application is subject to denial and his temporary license voided  
14 because Respondent, under penalty of perjury, failed to disclose on his Application that, on  
15 September 17, 2021, the Los Angeles County Superior Court convicted Respondent of violating  
16 Vehicle Code section 23103, reckless driving and Vehicle Code section 14601.5, subdivision (a),  
17 driving with a suspended license, both misdemeanors. Respondent's license was suspended  
18 based upon the February 1, 2017 DUI conviction. Respondent received a sentenced of three years  
19 of probation, and was ordered to complete a second Second-Offender Program, MADD, VIP, as  
20 well as pay a fine and restitution. The sentence was suspended. Respondent did not disclose the  
21 conviction on the Application received by the Bureau on or about November 9, 2021, and did not  
22 disclose that he was on probation.

23 10. Respondent did not provide a reason for leaving employment with Pescador on the  
24 supplemental. Respondent later provided that reason that his employment was terminated for  
25 performance deficiencies.

26 11. Respondent did not provide a reason for leaving employment with Essex on the  
27 supplemental. Respondent later provided that reason that his employment was terminated for  
28 production and performance deficiencies.

1 12. Respondent failed to disclose required information that is material to his Application,  
2 and provided inaccurate and misleading information to the Bureau regarding the circumstances  
3 surrounding his termination.

4 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subs. (a) & (b) [mandatory denial], 19866; Cal.  
5 Code. Regs., tit. 4, §§ 12040, subs. (a)(1), (2) [mandatory denial], 12122, subd. (d), 12130, subd.  
6 (d).)

7 **SECOND CAUSE FOR DENIAL**

8 **(Misdemeanor Conviction - Unsuitable for Licensure)**

9 13. Complainant hereby refers to and incorporates by reference Paragraphs 8 through 10  
10 above as though fully set forth herein.

11 14. Respondent's Application is subject to denial and his temporary license voided  
12 because Respondent has engaged in illegal behavior, demonstrating a willingness to violate the  
13 law and a conscious disregard for the health, safety, and welfare of others.

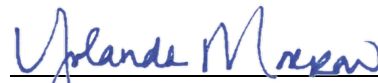
14 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subd. (a); Cal. Code. Regs., tit. 4, §§ 12040, subs.  
15 (a)(1), (2) [mandatory denial], 12122, subd. (d), 12130, subd. (d).)

16 **PRAYER**

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

- 19 1. Denying Respondent's Application;  
20 2. Voiding Respondent's temporary license number TPWK-002834; and  
21 3. Taking such other and further action as the Commission may deem appropriate.

22  
23 Dated: January 11, 2023

24   
25 \_\_\_\_\_  
26 YOLANDA MORROW, Director  
27 Bureau of Gambling Control  
28 California Department of Justice

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  
5 supervision over gambling establishments in this state and over all persons or  
6 things having to do with the operation of gambling establishments is vested  
7 in the commission.

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

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

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

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

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

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

25 The commission shall have all powers necessary and proper to enable it  
26 fully and effectually to carry out the policies and purposes of this chapter,<sup>[2]</sup>  
27 including, without limitation, the power to do all of the following:

28 \* \* \*

(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  
individual owner endorsed on the license certificate of the gambling  
enterprise whether or not the commission takes action against the  
license of the gambling enterprise.

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

1 \* \* \*

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

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

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

7 \* \* \*

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

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

11 (a) The commission, after considering the recommendation of the  
12 chief<sup>3</sup> and any other testimony and written comments as may be presented at  
13 the meeting, or as may have been submitted in writing to the commission  
14 prior to the meeting, may either deny the application or grant a license to an  
15 applicant who it determines to be qualified to hold the license.

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

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

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

19 (e) A decision of the commission denying a license or approval, or  
20 imposing any condition or restriction on the grant of a license or approval  
21 may be reviewed by petition pursuant to Section 1085 of the Code of Civil  
22 Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to  
23 any judicial proceeding described in the foregoing sentence, and the court  
24 may grant the petition only if the court finds that the action of the  
25 commission was arbitrary and capricious, or that the action exceeded the  
26 commission's jurisdiction.

24 6. Business and Professions Code, section 19871 provides:

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

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

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

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

(A) To call and examine witnesses.

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

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

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

(E) To offer rebuttal evidence.

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

(4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support 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.

(b) Nothing in this section confers upon an applicant a right to discovery of the department's<sup>4</sup> investigative reports or to require disclosure of any document or information the disclosure of which is otherwise prohibited by any other provision of this chapter.

7. 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 . . .

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

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

<sup>4</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

1 appropriate sources including, without limitation, a request from the Bureau  
2 or applicant as well as the Commission's operational considerations.

3 (b) When the Commission has elected to hold a GCA hearing, the  
4 Executive Director will give notice to the applicant, pursuant to paragraph (2)  
5 subsection (c) of Section 12052, to the Office of the Attorney General, and to  
6 the Bureau no later than 60 calendar days in advance of the GCA hearing.

### 7 **SPECIFIC STATUTORY PROVISIONS**

8 9. Business and Professions Code section 19856 provides, in part:

9 (a) The burden of proving his or her qualifications to receive any license  
10 is on the applicant.

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

14 10. Business and Professions Code, section 19857 provides:

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

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

19 (b) A person whose prior activities, criminal record, if any,  
20 reputation, habits, and associations do not pose a threat to the public  
21 interest of this state, or to the effective regulation and control of  
22 controlled gambling, or create or enhance the dangers of unsuitable,  
23 unfair, or illegal practices, methods, and activities in the conduct of  
24 controlled gambling, or in the carrying on of the business and  
25 financial arrangements incidental thereto.

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

28 11. 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.



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12. 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.

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

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

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

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

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

(d) 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.

**THIRD-PARTY PROPOSITION PLAYER PROVISIONS**

15. 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 the integrity of controlled gambling in this state . . .

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

(d) 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.

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

3 (b) Each TPPPS contract will specifically require all of the following to  
4 be separately set forth at the beginning of the contract in the following order:

5 \* \* \*

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

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

10 **VEHICLE CODE PROVISIONS**

11 18. Vehicle Code section 14601.5, subdivision (a) provides:

12 A person shall not drive a motor vehicle at any time when that person's  
13 driving privilege is suspended or revoked pursuant to Section 13353,  
14 13353.1, or 13353.2 and that person has knowledge of the suspension or  
15 revocation.

16 19. Vehicle Code section 23103 provides:

17 (a) A person who drives a vehicle upon a highway in willful or wanton  
disregard for the safety of persons or property is guilty of reckless driving.

18 (b) A person who drives a vehicle in an offstreet parking facility, as  
defined in subdivision (c) of Section 12500, in willful or wanton disregard  
for the safety of persons or property is guilty of reckless driving.

19 (c) Except as otherwise provided in Section 40008, persons convicted  
20 of the offense of reckless driving shall be punished by imprisonment in a  
21 county jail for not less than five days nor more than 90 days or by a fine of  
22 not less than one hundred forty-five dollars (\$145) nor more than one  
thousand dollars (\$1,000), or by both that fine and imprisonment, except as  
provided in Section 23104 or 23105.

23 20. Vehicle Code section 23152, subdivision (b) provides:

24 It is unlawful for a person who has 0.08 percent or more, by weight, of  
25 alcohol in his or her blood to drive a vehicle.

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