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

14  
15 In the Matter of the Application for a Finding  
of Suitability for:

**CGCC Case No. GCADS-TRKE-020582**

**BGC Case No. BGC-HQ2020-00030SL**

17 **Alan Richard Erikson**  
18 [REDACTED]

**STATEMENT OF REASONS**

19  
20 **Respondent.**

21  
22  
23 Complainant alleges as follows:

24 **PARTIES**

25 1. Stephanie K. Shimazu (Complainant) brings this Statement of Reasons solely in her  
26 official capacity as Director of the California Department of Justice, Bureau of Gambling Control  
27 (Bureau).  
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**CAUSE FOR DENIAL**

**(Felony Conviction)**

8. Respondent’s Application is subject to denial in that on December 4, 1990, the Riverside County Superior Court convicted Respondent of violating Health and Safety Code section 11351, unlawful possession for sale of a narcotic/controlled substance. This conviction is classified as a felony.

9. On February 1, 1999, Respondent successfully petitioned to have his felony conviction dismissed pursuant to Penal Code section 1203.4. However, on September 3, 1999, the court denied Respondent’s motion to reduce the felony to a misdemeanor under Penal Code section 17, subdivision (b).

(Bus. & Prof. Code, §§ 19856, 19857, subs. (a) & (b), 19859, subd. (c).)

**PRAYER**

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

1. Denying Respondent’s Application for a finding of suitability for tribal key employee license; and
2. Taking such other and further action as the Commission may deem appropriate.

Dated: March 31, 2021

Stephanie Shimazu Digitally signed by Stephanie Shimazu  
Date: 2021.03.31 23:09:18 -07'00'

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

1 APPENDIX A

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

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

- 7 2. Business and Professions Code section 19823 provides:

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

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

14 (2) Assuring that there is no material involvement,  
15 directly or indirectly, with a licensed gambling operation, or  
16 the ownership or management thereof, by unqualified or  
17 disqualified persons, or by persons whose operations are  
18 conducted in a manner that is inimical to the public health,  
19 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  
22 in Section 19857, and "disqualified person" means a person who is  
23 found to be disqualified pursuant to the criteria set forth in Section  
24 19859.

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

26 The commission shall have all powers necessary and proper to  
27 enable it fully and effectually to carry out the policies and purposes of  
28 this chapter,<sup>[4]</sup> including, without limitation, the power to do all of the  
following:

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(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

<sup>4</sup> "Chapter" refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

1 enterprise whether or not the commission takes action against the  
2 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  
suitability as defined in subdivision (i) of 19805, or apply for a  
9 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 19854 provides, in part:

13 (a) Every key employee shall apply for and obtain a key  
14 employee license.

15 (b) No person may be issued a key employee license unless the  
16 person would qualify for a state gambling license.

- 17 6. Business and Professions Code section 19856 provides:

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

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

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

1 7. Business and Professions Code section 19857 provides:

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

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

6 (b) A person whose prior activities, criminal record, if any,  
7 reputation, habits, and associations do not pose a threat to the public  
8 interest of this state, or to the effective regulation and control of  
9 controlled gambling, or create or enhance the dangers of unsuitable,  
10 unfair, or illegal practices, methods, and activities in the conduct of  
11 controlled gambling, or in the carrying on of the business and financial  
12 arrangements incidental thereto.

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

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

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

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

20 \* \* \*

21 (c) (1) Except as provided in paragraph (2), conviction of a  
22 felony, including a conviction by a federal court or a court in another  
23 state for a crime that would constitute a felony if committed in  
24 California.

25 (2) A conviction of a felony for the possession of cannabis,  
26 the facts of which would not constitute a felony or misdemeanor on  
27 the date the application for a license is submitted, shall not constitute a  
28 basis to deny a license pursuant to this section.

9. Business and Professions Code section 19870 provides:

(a) The commission, after considering the recommendation of the  
chief<sup>5</sup> and any other testimony and written comments as may be  
presented at the meeting, or as may have been submitted in writing to  
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  
hold the license.

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

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

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

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

10 (e) A decision of the commission denying a license or approval,  
11 or imposing any condition or restriction on the grant of a license or  
12 approval may be reviewed by petition pursuant to Section 1085 of the  
13 Code of Civil Procedure. Section 1094.5 of the Code of Civil  
14 Procedure shall not apply to any judicial proceeding described in the  
15 foregoing sentence, and the court may grant the petition only if the  
16 court finds that the action of the commission was arbitrary and  
17 capricious, or that the action exceeded the commission's jurisdiction.

18 10. Business and Professions Code section 19871 provides:

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

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

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

25 (A) To call and examine witnesses.

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

28 (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

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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>[6]</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.

11. California Code of Regulations, title 4, section 12040, subdivision (a) provides, in part:

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.

12. 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 . . . .

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

(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 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.

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



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

6 (c) The presiding officer shall have no communication with the  
7 Commission or Commission staff upon the merits, or upon  
8 information or documents related to the application prior to the  
9 evidentiary hearing. The Executive Director shall designate a  
10 presiding officer which shall be:

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

13 (d) The applicant or the complainant, or the applicant and the  
14 complainant, may request a continuance in writing to the Executive  
15 Director stating the reason for the continuance and any proposed  
16 future hearing dates. The Executive Director or Commission may  
17 approve the request.

18 (e) The complainant shall provide to the applicant, at least 45  
19 calendar days prior to the GCA hearing, and the applicant shall  
20 provide to the complainant, at least 30 calendar days prior to the GCA  
21 hearing, the following items:

- 22 (1) A list of potential witnesses with the general subject of  
23 the testimony of each witness;
- 24 (2) Copies of all documentary evidence intended to be  
25 introduced at the hearing and not previously provided;
- 26 (3) Reports or statements of parties and witnesses, if  
27 available; and
- 28 (4) All other written comments or writings containing  
relevant evidence.

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

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

- (A) Evidentiary issues;
- (B) Witness and exhibit lists;

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(C) Alterations in the Bureau recommendation;

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

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

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

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

(1) 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.

(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.

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

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

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

6 14. California Code of Regulations, title 4, section 12120 provides, in part:

7 Applications for findings of suitability received pursuant to Tribal-  
8 State gaming compact section 6.5.6 and comparable sections of new or  
9 amended compacts for Tribal gaming employees in key employee  
10 positions, Tribal gaming resource suppliers and financial sources, will  
be processed as initial or renewal licenses consistent with Section  
12040.

11 15. The Tribal-State Compact Between the State of California and the Santa Rosa  
12 Rancheria section 6.5.6 provides, in part:

13 (a) Upon receipt of a completed license application and a  
14 determination by the Tribal Gaming Agency that it intends to issue the  
earlier of a temporary or permanent license, the Tribal Gaming  
15 Agency shall transmit to the State Gaming Agency a notice of intent to  
license the applicant, together with all of the follow: (i) a copy of all  
16 tribal license application materials and information received by the  
Tribal Gaming Agency from the applicant; (ii) an original set of  
17 fingerprint cards; (iii) a current photograph; and (iv) except to the  
extent waived by the State Gaming Agency, such releases of  
18 information, waivers, and other completed and executed forms as have  
been obtained by the Tribal Gaming Agency. Except for an applicant  
19 for licensing as a non-key Gaming Employee, as defined by agreement  
between the Tribal Gaming Agency and the State Gaming Agency, the  
20 Tribal Gaming Agency shall require the applicant also to file an  
application with the State Gaming Agency, prior to issuance of a  
21 temporary or permanent tribal gaming license, for a determination of  
suitability for licensure under the California Gambling Control Act.  
22 Investigation and disposition of that application shall be governed  
entirely by state law, and the State Gaming Agency shall determine  
23 whether the applicant would be found suitable for licensure in a  
gambling establishment subject to that Agency's jurisdiction.  
24 Additional information may be required by the State Gaming Agency  
to assist it in its background investigation, provided that such State  
25 Gaming Agency requirement shall be no greater than that which may  
be required of applicants for a State gaming license in connection with  
26 nontribal gaming activities and at a similar level of participation or  
employment. A determination of suitability is valid for the term of the  
27 tribal license held by the applicant, and the Tribal Gaming Agency  
shall require a licensee to apply for renewal of a determination of  
28 suitability at such time as the licensee applies for renewal of a tribal

1 gaming license. The State Gaming Agency and the Tribal Gaming  
2 Agency (together with tribal gaming agencies under other gaming  
3 compacts) shall cooperate in developing standard licensing forms for  
4 tribal gaming license applicants, on a statewide basis, that reduce or  
eliminate duplicative or excessive paperwork, which forms and  
procedures shall take into account the Tribe's requirements under  
IGRA and the expense thereof.

5 (b) Background Investigations of Applicants. Upon receive of  
6 completed license application information from the Tribal Gaming  
7 Agency, the State Gaming Agency may conduct a background  
8 investigation pursuant to state law to determine whether the applicant  
9 would be suitable to be licensed for association with a gambling  
10 establishment subject to the jurisdiction of the State Gaming Agency.  
11 If further investigation is required to supplement the investigation  
12 conducted by the Tribal Gaming Agency, the applicant will be  
13 required to pay the statutory application fee charged by the State  
14 Gaming Agency pursuant to California Business and Professions Code  
15 section 19941(a), but any deposit requested by the State Gaming  
16 Agency pursuant to section 19855 of that Code shall take into account  
17 reports of the background investigation already conducted by the  
18 Tribal Gaming Agency and the NIGC, if any. Failure to pay the  
19 application fee or deposit may be grounds for denial of the application  
20 by the State Gaming Agency. The State Gaming Agency and Tribal  
21 Gaming Agency shall cooperate in sharing as much background  
22 information as possible, both to maximize investigative efficiency and  
23 thoroughness, and to minimize investigative costs. Upon completion  
24 of the necessary background investigation or other verification of  
25 suitability, the State Gaming Agency shall issue a notice to the Tribal  
26 Gaming Agency certifying that the State has determined that the  
27 applicant would be suitable, or that the applicant would be unsuitable,  
28 for licensure in a gambling establishment subject to the jurisdiction of  
the State Gaming Agency and, if unsuitable, stating the reasons  
therefor.

\* \* \*

19 (d) Prior to denying an application for a determination of  
20 suitability, the State Gaming Agency shall notify the Tribal Gaming  
21 Agency and afford the Tribe an opportunity to be heard. If the State  
22 Gaming Agency denies an application for a determination of  
23 suitability, that Agency shall provide the applicant with written notice  
24 of all appeal rights available under state law.  
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