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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Applications for State  
Gambling Licenses Regarding:

KRIS KAT, LLC and its Managing Member:  
STEVEN C. AYERS

Respondents.

BGC Case No. BGC-HQ2018-00008SL  
CGCC Case No. CGCC-2018-0111-5A

**DECISION AND ORDER**

Hearing Dates: October 19, 2018  
October 22-25, 2018  
October 29, 2018

Time: 10:00 a.m.

This matter was heard by the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, on October 19, 2018, October 22-25, 2018, and October 29, 2018. The administrative record was kept open until October 31, 2018 to allow the Commission to receive additional documents from the parties.

William Torngren (DAG Torngren) and Paras Modha (DAG Modha), Deputy Attorney Generals, State of California, represented complainant Stephanie Shimazu, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Attorneys David Millstein of Millstein & Associates (Attorney Millstein) and John K. Maloney (Attorney Maloney) represented respondents Kris Kat, LLC (Kris Kat) and its Managing Member Steven C. Ayers (Ayers) (collectively, Respondents).

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing, with enclosures, sent by the Commission to Ayers, Attorney Millstein, Attorney Maloney, DAG Torngren, and DAG Modha, via certified mail, on March 28, 2018. Presiding Officer Jason Pope also took official notice of the Bureau's Statement of Reasons, the Commission's Conclusion of Prehearing Conference letter, and Respondents' signed Notice of Defense.

During the evidentiary hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

- (1) Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code, §§ 19870 & 19871; Copy of Cal. Code. Regs., tit. 4, § 12060; August 9, 2018 Declaration of Service by Certified Mail Service; and Notice of Defense, dated January 24, 2018, Bates Nos. 0001-0028;
- (2) Application for State Gambling License for Steven Carl Ayers, Bates Nos. 0029-0039;
- (3) Supplemental Background Investigation for Steven Carl Ayers received September 19, 2016, Bates Nos. 0040-0074;
- (4) Supplemental Background Investigation for Steven Carl Ayers received January 9, 2017, Bates Nos. 0075-0241;
- (5) Application for State Gambling License for Kris Kat, LLC, Bates Nos. 0242-0252;
- (6) Supplemental Background Investigation for Kris Kat, LLC received January 19, 2017, Bates Nos. 0253-0301;
- (7) Supplemental Background Investigation for The Elks Tower Casino and Lounge, Bates Nos. 0302-0345;
- (8) Background Investigation Report dated November 2017, Bates Nos. 0346-0438;
- (9) DOJ Records Printout, Bates Nos. 0439-0445;
- (10) United States District Court, District of Nevada, court documents entered April 4, 1990, Bates Nos. 0446-0448;
- (11) Yolo County Superior Court documents from arrest date of April 15, 2013, Bates Nos. 0449-0451;
- (12) Yolo County Superior Court documents from arrest date of January 19, 2013; DUI Arrest Report October 6, 2011 (page 464); DUI Arrest Report January 19, 2013 (page 470), Bates Nos. 0452-0479;
- (13) Las Vegas Metropolitan Police Department documents from arrest dates of

- 1 September 30, 1988 and July 31, 1990, Bates Nos. 0480-0486;
- 2 (14) Davis Police Department records from arrest date of May 26, 2017 and
- 3 April 14, 2017, Bates Nos. 0487-0497;
- 4 (15) Yolo County Superior Court criminal records from arrest date of April 14,
- 5 2017, Bates Nos. 0498-0526;
- 6 (16) Davis Police Department records from arrest date of October 19, 2017,
- 7 Bates Nos. 0527-0532;
- 8 (17) United States Government records, Conspiracy to Defraud, Bates Nos.
- 9 0533-0610;
- 10 (18) Email from Steve Ayers re Carl Corporation, Bates Nos. 0611-0613;
- 11 (19) Email from Steve Ayers re court case, Bates Nos. 0614-0618;
- 12 (20) Email from BGC re: authorization to release information form, Bates Nos.
- 13 0619-0622;
- 14 (21) Email from BGC re: designated agent form, Bates Nos. 0623-0628;
- 15 (22) Email from Penny Ayers re: conviction, Bates Nos. 0629-0630;
- 16 (23) Email from Steve Ayers re: 2017 conviction, Bates Nos. 0631-0632;
- 17 (24) Email from BGC to Penny Ayers re: Federal Court cases, Bates Nos. 0633-
- 18 0635;
- 19 (25) Email from Law Office of Steven C. Sabbadini re: 2017 conviction;
- 20 Pictures; 911 call, Bates Nos. 0636-0650 and DVD;
- 21 (26) United States District Court, District of Nevada, court documents, Bates
- 22 Nos. 0651-1908;
- 23 (27) Carl Corporation Emails, Bates Nos. 1909-1921;
- 24 (28) Ayers' Emails between May 26, 2017 and June 28, 2017, Bates Nos. 1922-
- 25 1926; and
- 26 (29) Three police videos: Part 1 is the body camera recording of Rod Rifredi;
- 27 Part 2 is the body camera recording of Matthew Muscardini; Part 3 is
- 28

1 another body camera recording of Matthew Muscardini, Bates No. 1927.

2 During the evidentiary hearing, Presiding Officer Jason Pope accepted into evidence the  
3 following exhibits offered by Respondents:

- 4 (A) Renee and Paul Snider, Bates No. SACC000007;
- 5 (B) Nacht & Lewis – Michael Corrick, AIA, Bates Nos. SACC000009-000010;
- 6 (C) LIONAKIS – Chuck Hack, Principal/BOD, Bates No. SACC000012;
- 7 (D) John Cooper – Director with Associated General Contractors, Bates No.  
8 SACC000014;
- 9 (E) Portico Development, LLC – Anthony G. Scotch, Bates No. SACC000016;
- 10 (F) Steward Ward & Josephson – Thomas F. Stewart, Esq., Bates Nos.  
11 SACC000018-000019;
- 12 (G) Porter Law Group, Inc. – William L. Porter, Bates Nos. SACC000021-  
13 000022;
- 14 (H) Kleinfelder West, Inc. – Theodore J. Oien, Sr. Project Manager, Bates No.  
15 SACC000024;
- 16 (I) apiNXT – Henry Chang, President, Bates No. SACC000026;
- 17 (J) Pacific Coast Building Products, Inc. – David J. Lucchetti, President &  
18 CEO, Bates No. SACC000028;
- 19 (K) Alkali & Mansion Flats Historic Neighborhood Association – Sean Wright,  
20 Pres., Bates No. SACC000030;
- 21 (L) Downtown Sacramento Partnership – Michael T. Ault, Executive Director,  
22 Bates No. SACC000032;
- 23 (M) Visit Sacramento – Mike Testa, President & CEO, Bates No.  
24 SACC000034;
- 25 (N) City of Sacramento – Steve Hansen, Councilmember, Bates No.  
26 SACC000036;
- 27 (O) Peace Officers Research Association – Brent J. Meyer, Bates Nos.  
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- 1 SACC000038-000039;
- 2 (P) Davis Reed Construction, Inc. – Paul Spence, Bates Nos. SACC000041-
- 3 000042;
- 4 (Q) Real Estate Law Group LLP – Andrew F. Sackheim, Bates Nos.
- 5 SACC000044-000045;
- 6 (R) Pace Supply – Jim Dunger, Bates Nos. SACC000047-000048;
- 7 (S) CMD Services, Inc. – Commercial Real Estate Services – Fred Springer,
- 8 Bates Nos. SACC000050-000051;
- 9 (T) Dan Dewald, Inc., Bates No. SACC000053;
- 10 (U) Cook / Brown – Attorneys at Law – Dennis B. Cook, Bates Nos.
- 11 SACC000055-000056;
- 12 (V) John Neumann, Bates No. SACC000058;
- 13 (W) Architectural Arts – Peter B. Dannenfelser, II, Bates Nos. SACC000060-
- 14 000061;
- 15 (X) Howard Shempp, DDS, Bates No. SACC000063;
- 16 (Y) Rohit Ranchhod, Bates No. SACC000065;
- 17 (Z) Williams + Paddon, Architect + Planners – Terence J. Green, Bates No.
- 18 SACC000067;
- 19 (AA) Steven L. Diede, Bates No. SACC000069;
- 20 (BB) Wealth Design Group – Gary L. Pevey, Bates Nos. SACC000071-000072;
- 21 (CC) Real Estate Law Group LLP – Attorneys at Law – Emil G. Tung, Bates
- 22 Nos. SACC000074-000075;
- 23 (DD) Colliers International – W.W. Applegate, Jr., Bates No. SACC000077;
- 24 (EE) Z Squared Construction – Al Malaeken, Bates No. SACC000079;
- 25 (FF) Paragon Construction consulting – Jeffrey Hall, President & CEO, Bates
- 26 No. SACC000081;
- 27 (GG) Iron Mechanical – Terry Risse, President, Bates Nos. SACC000083-
- 28

1 000084;  
2 (HH) Westcon Construction Group – Eric F. Campbell, President, Bates Nos.  
3 SACC000086-000087;  
4 (II) Mascon Inc. – Michael A. Schneider, President, Bates No. SACC000089;  
5 (JJ) RECON Networking, Inc. – David Conner, Bates Nos. SACC000091-  
6 000092;  
7 (KK) AIRCO Mechanical, Inc. – Wyatt Jones, Bates Nos. SACC000094-000095;  
8 (LL) Syphax Strategic – Scott C. Syphax, President, Bates Nos. SACC000097-  
9 000099;  
10 (MM) 2017-2018 City Table Fees, Bates Nos. SACC000101-000113;  
11 (NN) Casino Royale Table Fees, Bates Nos. SACC000115-000116;  
12 (OO) Charitable Giving, Bates Nos. SACC000118-000122;  
13 (PP) Comstocks Article, Bates Nos. SACC000124-000127;  
14 (QQ) KCRA Website April 13, 2017, Bates Nos. SACC000129-000132;  
15 (RR) Sacramento Bee Casino Article, Bates Nos. SACC000134-000137;  
16 (SS) Joel Cardenas – Executive Director – Youth Sport Solutions, Bates No.  
17 SACC000139;  
18 (TT) Documentation for December 18, 2018 Commission Meeting Binders,  
19 Bates Nos. SACC000141-000152;  
20 (UU) Minutes of December 18, 2017 Commission Meeting, Bates Nos.  
21 SACC000154-000178;  
22 (VV) Minute of January 11, 2018 Commission Meeting, Bates Nos.  
23 SACC000180-000199;  
24 (WW) Charles McCormick, Jr. – Decision and Order, Bates Nos. SACC000201-  
25 000224;  
26 (XX) Craig Teruo Ogasawara – Statement of Particulars, Bates Nos.  
27 SACC000226-000239;  
28

(YY) John Patrick Buys – Statement of Reasons, Bates Nos. SACC000241-000262;

(ZZ) Mark Joseph Pickens – Decision and Order, Bates Nos. SACC000264-000275;

(AAA) Nader Tafty – Stipulated Settlement; Decision and Order, Bates Nos. SACC000277-000311;

(BBB) Naseem Salem – Decision and Order, Bates Nos. SACC000313-000333;

(CCC) Richard Thoai Kwan – Statement of Particulars, Bates Nos. SACC000335-000341;

(DDD) Steph (Shlermchai) Stapornkul – Statement of Reasons, Bates Nos. SACC000343-000358;

(EEE) Travis Seiler – Decision and Order, Bates Nos. SACC000360-000380;

(FFF) Various Ayers E-mails regarding Department of Justice, Bates Nos. SACC000382-002903;

(GGG) 30-Day Treatment Program, Bates No. SACC002905;

(HHH) Chapters – Dr. Sharon Stafford, Ph.D., Bates Nos. SACC002907-002916;

(III) State of California Department of Alcoholic Beverage Control – Current and Valid License for Kris Kat, LLC, Bates No. SACC002918;

(JJJ) Correspondence from Morrow regarding Disapproval of TPPPPS with Gold Gaming dated April 17, 2018, Bates No. SACC002920;

(KKK) Correspondence from Kenneth Bacon to Matthew Ruyak, re license reinstatement and proposed sale of Sacramento Casino Royale, Dated April 1, 2016, Bates Nos. SACC002922-002929;

(LLL) Declaration of Kit Miyamoto dated September 26, 2018, Bates Nos. SACC002931-002932;

(MMM) Correspondence from Robert Thomas to City of Sacramento and various email chains, pages 1-16, Bates Nos. SACC002934-

002949;

(NNN) First Capital, Steve Goodwin, Director of Development, Bates Nos.

SACC002951-002952:

(OOO) Arraignment, Plea, and Sentencing Transcript dated September 29, 1992,

Bates Nos. SACC002954-002978;

(PPP) Order of Remission dated July 31, 1997, Bates No. SACC002980;

(QQQ) Petition to Remit Fine; Order (18 U.S.C. §3573) filed August 4, 1997,

Bates Nos. SACC002982-002983;

(RRR) Steven Ayers' email to Dawn Ward dated February 07, 2017 at 6:25 PM,

Subject: RE: Casino Royale . . . . . New Casino and New location, Bates

No. SAC002986;

(SSS) Reference Letter from L. Frank Vellutini dated October 4, 2018, Bates No.

SACC002988;

(TTT) Reference Letter from David Sobon, CEO of Wide Open Walls, Bates No.

SACC002990:

(UUU) Reference Letter from Sean Donerty Sr. dated October 9, 2018, Bates No.

SACC002992;

(VVV) Declaration of Terence J. Lynam, Esq. dated October 16, 2018, Bates Nos.

SACC002994-003003;

(FFFa) Compilation Summary of Documents submitted back and forth with the

Bureau, Bates Nos. SACC003008-003012;

(XXX) Summary of Character Statements Regarding Steven Ayers; and

(YYY) Declarations of Steven Ayers and Penny Ayers regarding calls for service.

Presiding Officer Jason Pope also accepted into evidence the following exhibit of the

Commission:

(1) Calls for Service by Davis Police Department to the current address



1 of Steven Ayers, Bates Nos. CGCC000001-000011.<sup>1</sup>

2 The record was closed and the matter was submitted on October 31, 2018.

3 **FINDINGS OF FACT**

4 **I. Procedural History**

5 1. On or about January 19, 2017, and January 23, 2017, the Bureau received Applications  
6 for State Gambling Licenses (Applications) from Kris Kat and Ayers, respectively. Ayers is the  
7 Sole Member and Managing Member of Kris Kat.

8 2. On or about November 3, 2017, the Bureau submitted a Background Investigation  
9 Report on Respondents to the Commission. In this report, the Bureau recommends that the  
10 Commission deny Respondents' Applications.

11 3. At its January 11, 2018 meeting, the Commission voted to refer the consideration of  
12 Respondents' Applications to a Gambling Control Act evidentiary hearing.

13 4. On or about January 24, 2018, Respondents submitted a signed Notice of Defense to  
14 the Commission requesting an evidentiary hearing on the consideration of their Applications.

15 5. On or about March 28, 2018, the Commission sent a Notice of Hearing, via certified  
16 mail, to Ayers, Attorney Millstein, Attorney Maloney, DAG Torngren, and DAG Modha.

17 6. On or about August 10, 2018, the Commission received a Statement of Reasons from  
18 the Bureau. In the Statement of Reasons, the Bureau recommends that the Commission deny  
19 Respondents' Applications.

20 7. On or about September 19, 2018, the noticed Prehearing Conference was held before  
21 Presiding Officer Jason Pope, Attorney III of the Commission. DAG Torngren and DAG Modha  
22 attended on behalf of the Bureau. Attorney Millstein and Attorney Maloney appeared on behalf of  
23 Kris Kat and Ayers, who also attended.

24 8. Also on or about September 19, 2018, the Commission sent a Conclusion of  
25 Prehearing Conference letter to Attorney Millstein, Attorney Maloney, DAG Torngren, and DAG  
26 Modha.

27 \_\_\_\_\_  
28 <sup>1</sup> Commission Exhibit (1) was admitted as administrative hearsay.

1           9. The Commission heard this matter on October 19, 2018, October 22-25, 2018, and  
2           October 29, 2018. The Bureau was represented throughout the hearing by DAG Torngren and  
3           DAG Modha. Respondents attended the hearing and were represented throughout the hearing by  
4           Attorney Millstein and Attorney Maloney.

5           10. Presiding Officer Jason Pope kept the administrative record open until October 31,  
6           2018 to allow the Commission to receive additional documents from the parties. The documents  
7           (Respondents' Exhibit YYY and Commission's Exhibit 1) were timely received. The  
8           administrative record was closed on October 31, 2018.

## 9           **II. The Elks Tower Casino and Lounge**

10           11. The Elks Tower Casino and Lounge is a proposed 5 table cardroom located in  
11           Sacramento, California. The Elks Tower Casino and Lounge entered into a purchase agreement  
12           with Sacramento Casino Royale dba Casino Royale to purchase the cardroom's assets on June 30,  
13           2016. The Purchase Agreement was received by the Bureau on or about October 4, 2016. The  
14           Applications from Kris Kat and Ayers are to operate the proposed Elks Tower Casino and  
15           Lounge.

## 16           **III. Respondents' Applications**

17           12. Applications for licensure by the Commission are submitted on forms furnished by the  
18           Bureau. An applicant for licensing shall make full and true disclosure of all information to the  
19           Bureau and Commission as necessary to carry out the policies of this state relating to licensing,  
20           registration, and control of gambling.

21           13. An application consists of two parts. The first part is four pages and consists of seven  
22           sections, including applicant information. Section (7) of the application is a Declaration, which  
23           requires the applicant to declare under penalty of perjury that the information contained within  
24           the application, including all attachments, is true, accurate, and complete. Ayers signed the  
25           Declaration on behalf of Kris Kat on September 18, 2016, and on his own behalf on January 6,  
26           2017.

27           14. The second part of an application is the Supplemental, which consists of 23 pages for  
28

1 a Gambling Establishment Owner Application – Individual (Ayers), and 19 pages for a Gambling  
2 Establishment Owner Entity (Kris Kat), not including documents and attachments provided by the  
3 applicants. The Supplemental requires that the applicant disclose, among other things, experience  
4 and employment history, and convictions, litigation, and arbitration history.

5 15. The Bureau relies, in large part, on the applicant's disclosures while conducting a  
6 background investigation. Both the substance of an applicant's disclosures, and the truthfulness  
7 and thoroughness of an applicant's disclosures, are considered by the Bureau in making a  
8 recommendation as to an applicant's suitability for licensure, and by the Commission in making a  
9 determination whether to approve or disprove a license application.

10 16. The last section of the Supplemental is another Declaration, to be signed by the  
11 applicant under the penalty of perjury, that the statements contained in the Supplemental are true,  
12 correct, and contain a full and true account of the information requested. Ayers signed the  
13 Declarations individually and on behalf of Kris Kat on January 3, 2017.

14 17. Ayers was exhaustive and thorough in his disclosures on the Applications, both  
15 individually and on behalf of Kris Kat. As a result, Ayers and Kris Kat met their burden of  
16 providing information and documentation required by the Gambling Control Act on their  
17 Applications.

#### 18 **IV. Applicants' Responses to the Bureau's Requests for Information**

19 18. An applicant must provide information, documentation, and assurances requested by  
20 the Bureau.

21 19. The Bureau requested additional information and documentation from Ayers on many  
22 occasions throughout the application and background investigation processes.

23 20. Ayers cooperated with the Bureau during its background investigation process. Ayers  
24 provided detailed and exhaustive responses to the Bureau's dozens of requests for additional  
25 information and documentation. As a result, Ayers and Kris Kat have met their burden of  
26 providing information, documentation, and assurances requested by the Bureau.

#### 27 **V. Applicants' Financial Viability**

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1           21. During its background investigation process, the Bureau determined that Ayers is  
2 financially stable and that his overall financial suitability is viable. The evidence in the record  
3 supports the findings of the Bureau. As a result, there are no issues regarding the financial  
4 viability of Kris Kat and Ayers to own and operate the Elks Tower Casino and Lounge.

5 **VI. Ayers's Employment History**

6           22. During the evidentiary hearing, Ayers testified that he started working in a steel shop  
7 at 12 years old. After attending college, Ayers founded Nevada Steel Company. He later founded  
8 Carl Corporation. Ayers worked in the steel and construction industry as a welder, steelworker,  
9 and then in construction management. Ayers is also a structural steel and seismic expert.

10           23. After moving to Sacramento in 1989, Ayers founded Armour Steel Company (Armour  
11 Steel), which had over 100 employees at the company's peak. Ayers has been the Chief Executive  
12 Officer of Armour Steel since 1989. Although Armour Steel no longer operates, it is still in  
13 existence as it winds down the business. Ayers also financially supported the founding of Iron  
14 Mechanical Inc. (Iron Mechanical) and is currently its Chairman of the Board of Directors.

15           24. Many witnesses testified during the evidentiary hearing and submitted letters of  
16 reference regarding their opinions and experiences of working with Ayers. The witness testimony  
17 and letters are referenced and are discussed in further detail in another section below. Overall, the  
18 testimony and support in these letters of reference is favorable regarding Ayers's work ethic,  
19 treatment of employees and partners, and achievements in the steel, construction, and real estate  
20 development industries. By these accounts, Ayers has had a successful business career.

21           25. Except as provided below, there were no issues raised during the evidentiary hearing  
22 regarding Ayers's career in the steel, construction, or real estate development industries.

23           26. Neither Ayers nor Kris Kat has any experience working in controlled gambling in the  
24 State of California or elsewhere.

25 ***A. Criminal Conviction of Carl Corporation***

26           27. Carl Corporation was a Nevada corporation founded by Ayers. Ayers was the sole  
27 shareholder and officer of Carl Corporation.  
28

1           28. Continental Corporation was the prime contractor for construction at Edwards Air  
2 Force Base on the Whole House Renovation Project (Project) pursuant to a firm fixed-price  
3 contract, which means that Continental Corporation was obligated to fully perform the contract at  
4 that fixed price regardless of the costs Continental Corporation incurred from its various suppliers  
5 and subcontractors. Carl Corporation was a subcontractor to Continental Corporation. Carl  
6 Corporation was responsible for supplying and installing items such as windows, screens,  
7 cabinets, and doors for the Project.

8           29. Following the Project, the United States Government filed an indictment against Carl  
9 Corporation and Ayers in his individual capacity, alleging the filing of false claims to the United  
10 States Government. At that time, Carl Corporation's only asset was a receivable from Continental  
11 Corporation. Carl Corporation had no other assets and was no longer in business.

12           30. The United States Government entered into a plea deal with Carl Corporation whereby  
13 Carl Corporation agreed to plead guilty to one count of submitting a false claim to the United  
14 States Government, and the United States Government agreed to dismiss all of the remaining  
15 charges against Carl Corporation and all of the charges against Ayers in his individual capacity.

16           31. On or about October 6, 1989, Carl Corporation plead guilty to one count of violating  
17 Title 18 U.S.C. section 287, presenting a false claim, a felony, in the case of *United States of*  
18 *America v. Carl Corporation, a Nevada Corporation* (D. Nev. 1989, Case No. CR-S 89-236-  
19 LDG). Carl Corporation was placed on probation for five years and ordered to pay a fine in the  
20 amount of \$10,000 and restitution in the amount of \$133,241.55. As Carl Corporation did not  
21 have any assets and was no longer operating, Carl Corporation did not pay the fine or restitution.  
22 Ayers disclosed this conviction on his Application.

23           32. Ayers was never personally convicted of any crime arising out of the actions taken by  
24 Carl Corporation on the Project. Ayers was never held personally liable for the payment of the  
25 fine and restitution on behalf of Carl Corporation.

26           33. Ayers was the sole shareholder and officer of Carl Corporation, which plead guilty to  
27 a felony for presenting a false claim to the United States Government. This is a very serious  
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1 crime. However, Ayers was never personally convicted of any crime and never held personally  
2 liable for the fine and restitution owed by Carl Corporation. Additionally, the actions taken by  
3 Ayers on behalf of Carl Corporation do not clearly establish any criminal intent. The conviction is  
4 almost 30 years old, which is remote in time. Based on the foregoing, the criminal conviction of  
5 Carl Corporation has no negative impact on the suitability of Ayers for licensure.

6 ***B. Criminal Conviction of Nevada Steel***

7 34. Nevada Steel Incorporated (Nevada Steel) was a Nevada corporation founded by  
8 Ayers. Ayers was the sole shareholder and officer of Nevada Steel.

9 35. The United States Government filed an indictment against Nevada Steel and Ayers in  
10 his individual capacity. Thereafter, the United States Government entered into a plea deal with  
11 Nevada Steel whereby Nevada Steel agreed to plead guilty to aiding and abetting the failure to  
12 maintain and keep and preserve records required by the Administrator of the Wage and Hour  
13 Division of the United States Department of Labor, and the United States Government agreed to  
14 dismiss all of the remaining charges against Nevada Steel and all of the charges against Ayers in  
15 his individual capacity.

16 36. On or about October 6, 1989, Nevada Steel plead guilty to violating Title 29 U.S.C.  
17 section 215(a)(5) for violating Title 29 U.S.C. section 211(c), aiding and abetting the failure to  
18 maintain and keep and preserve records required by the Administrator of the Wage and Hour  
19 Division of the United States Department of Labor, either a misdemeanor or petty offense, in the  
20 case of *United States of America v. Nevada Steel, Inc., a Nevada Corporation* (D. Nev. 1989,  
21 Case No. CR-S 89-237-LDG). Nevada Steel was ordered to pay a fine in the amount of \$3,500.  
22 Ayers disclosed this conviction on his Application.

23 37. Ayers was never personally convicted of any crime arising out of the actions taken by  
24 Nevada Steel. Ayers was never held personally liable for the payment of the fine on behalf of  
25 Nevada Steel.

26 38. Ayers was the sole shareholder and officer of Nevada Steel, which plead guilty to a  
27 misdemeanor or petty offense for aiding and abetting the failure to maintain and keep and  
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1 preserve records required by the Administrator of the Wage and Hour Division of the United  
2 States Department of Labor. This is a serious crime. However, Ayers was never personally  
3 convicted of any crime and never held personally liable for the fine owed by Nevada Steel. The  
4 actions taken by Ayers on behalf of Nevada Steel do not clearly establish any criminal intent. The  
5 conviction is almost 30 years old, which is remote in time. Based on the foregoing, the criminal  
6 conviction of Nevada Steel has no negative impact on the suitability of Ayers for licensure.

## 7 **VII. Ayers's Philanthropic and Charitable Contributions**

8 39. Ayers has served on numerous boards for philanthropic and charitable organizations  
9 including Sutter Hospital Foundation, YMCA, Eskaton, the Power House Science Center, and the  
10 Miyamoto Global Relief Organization.

11 40. Ayers has been a sponsor and donated to various other charitable organizations  
12 including the River Oaks Center for Children, Make-A-Wish Foundation, Sutter Health,  
13 Compassionate Planet, Loaves & Fishes, the River District, and the Sacramento Zoo. Ayers has  
14 also worked on a Homeless Task Force.

15 41. Many witnesses testified during the evidentiary hearing and submitted letters of  
16 reference regarding Ayers's substantial contributions in time, money, and services to  
17 philanthropic, civic, and charitable organizations and causes. The witness testimony and letters  
18 are referenced and are discussed in further detail in another section below. Overall, the testimony  
19 and support in these letters of reference affirms that Ayers is philanthropic, civic-minded,  
20 community-oriented, charitable, and generous, which reflects positively on Ayers's character.

## 21 **VIII. Ayers's Witnesses and Letters of Reference**

22 42. Thirteen witnesses testified in support of Ayers during the hearing as follows:

- 23 a. Ross Cofer (Cofer) is a Certified Public Accountant with Clifton, Larson, and  
24 Allen. Cofer has known Ayers for 25 years and has socialized and traveled  
25 with Ayers and his wife. Cofer testified that he is the primary accountant for  
26 Ayers personally and his companies. As the primary accountant, Cofer has  
27 prepared reviewed financial statements (a mid-level review that does not reach  
28

1 the level of audited financial statements) and tax returns, and provided  
2 guidance on tax issues. Cofer testified that Ayers is responsible, a good  
3 taxpayer, and demonstrates high truthfulness in reporting for taxation and  
4 financial reporting. He testified that Ayers is very charitable and philanthropic,  
5 donates his money and time, and sits on charitable boards. Cofer believes that  
6 Ayers is an uplifting person, a mentor to co-workers and others, and that Ayers  
7 has good character, honesty and integrity.

8 b. Theodore Oien (Oien) is the Senior Project Manager, Construction Materials  
9 Testing and Inspection, at Kleinfelder West, Inc., which performs engineering  
10 and testing inspection services on construction projects, including steel  
11 construction, to ensure compliance with building codes. Oien has been in the  
12 construction inspection industry for more than 40 years. Oien has known Ayers  
13 for 25 years and has inspected 50 to 100 buildings with steel construction by  
14 Armour Steel. Oien testified that he gives Ayers an “A” to characterize  
15 Armour Steel’s compliance with building codes and regulations based on his  
16 inspections of various buildings. Oien testified that Ayers is very responsive  
17 and cooperative and a pleasure to deal with. Ayers always wants to comply  
18 with the building codes, do the right thing, and ensure that the end result is  
19 quality. Oien testified that he never had a problem with any non-compliance on  
20 paperwork or documentation by Armour Steel; that Armour Steel provided  
21 very good quality steel and never cut corners; and that Ayers never resisted or  
22 defied instructions or recommendations made to ensure the safety of the  
23 structures being built. Oien describes Ayers as a consummate gentleman,  
24 compassionate, good to people, and someone with high integrity who keeps his  
25 promises. Oien also submitted a letter of reference in support of Ayers’s  
26 Application.

27 c. Scott Syphax (Syphax) is the Chief Executive Officer of Syphax Strategic  
28



1 Solutions, a national investment advisory and economic development firm  
2 focused on healthcare, real estate development, and mortgage finance. Syphax  
3 met Ayers 16 or 17 years ago when he was the Chairman and CEO of the non-  
4 profit Nehemiah Companies (Nehemiah). Ayers reached out to Syphax when  
5 Nehemiah came into the area of the River District in Sacramento. Syphax  
6 testified that Ayers is one of the city fathers of Sacramento. He testified that  
7 Ayers follows through on agreements, that his word is bond, that he served as a  
8 mentor, and that Ayers never asked for anything in return for his efforts in  
9 promoting a low-cost housing project. Syphax also submitted a letter of  
10 reference in support of Ayers's Application.

11 d. William Porter (Porter) has been an attorney for 30 years. Porter worked on  
12 construction loans for contractors, subcontractors, and suppliers. Porter met  
13 Ayers 17 years ago. Porter testified that Ayers has the highest level of  
14 character, honesty, and integrity. He testified that Ayers has high standards of  
15 care, is fair with others, and agreed to the fairest indemnity clauses in his  
16 contracts. Porter describes Ayers as a good businessman who works at  
17 relationships and pays the people below him even if he is not paid. Porter  
18 testified that Ayers is charitable, has a great work ethic and a strong moral  
19 compass, and that Ayers does the right thing. Porter also submitted a letter of  
20 reference in support of Ayers's Application.

21 e. Fred Springer (Springer) is the real estate broker who represented Ayers as the  
22 buyer of the Elks Tower building. Springer testified that the building required a  
23 seismic retrofit which was undertaken by Ayers. Springer manages the  
24 property and testified that Ayers is always honest, follows the rules with his  
25 tenants, and that he has never seen Ayers exercise any dishonesty. Springer  
26 also submitted a letter of reference in support of Ayers's Application.

27 f. Mark Tyndale (Tyndale) is a retired homicide detective with the Sacramento  
28

1 Police Department and served as the President and Vice President of the  
2 Sacramento Police Officers Association. Tyndale has known Ayers for a little  
3 more than 10 years and describes Ayers as one of his best friends, someone he  
4 loves like a brother. Tyndale testified that he really trusts Ayers, who was there  
5 for him when his nephew died while stationed in Afghanistan. Tyndale  
6 testified that Ayers hired former convicts with questionable pasts to work in  
7 the construction industry, and that many of these employees were really  
8 appreciative and looked at Ayers as a father figure. Tyndale testified that he  
9 has full trust in Ayers's honesty and integrity and that Ayers has the utmost  
10 respect for law enforcement authority. He describes Ayers as responsible,  
11 social, generous, and someone who is there for everybody. Tyndale testified  
12 that he has seen Ayers drink alcohol socially, but not in a socially offensive  
13 manner. He testified that he has seen Ayers's eyelids get heavy and fall asleep  
14 after drinking.

- 15 g. Mark Wiese (Wiese) is the President of Pacific Housing, which is a non-profit  
16 real estate development business that creates low cost, affordable housing.  
17 Wiese has known Ayers for almost 20 years. Approximately 7 years ago they  
18 entered into a business relationship to develop the Sacramento Railyards.  
19 Wiese testified that Ayers is pragmatic and does the right thing. Wiese testified  
20 that he has a very high opinion of Ayers's character, integrity, and honesty.
- 21 h. Aristides Tzikas (Tzikas) has been an attorney for 40 years and has represented  
22 Ayers for 30 years in transactional matters dealing with construction contracts,  
23 entity formation, and corporate governance. Tzikas describes Ayers as a good  
24 client who follows regulations, timely performs on the payment of fees and  
25 taxes, and never suggests cutting corners. Tzikas testified that the construction  
26 industry is full of hard drinking individuals and that deals are made over meals  
27 and on napkins.

- 1 i. Stanley J. Matranga (Matranga) is a surety bond agent who used to be a bond  
2 underwriter. Matranga represents insurance companies that guarantee writing  
3 bonds for third parties such as contractors and real estate developers. Matranga  
4 testified that for writing bonds they concentrate on the “3 C’s”: character,  
5 capital, and capacity. Matranga underwrote performance bonds for Ayers and  
6 his companies while working as an underwriter for Travelers. Matranga  
7 testified that Ayers always paid his bills. He testified that Ayers has very good  
8 character, strong business skills, and is strong financially. Matranga testified  
9 that Ayers’s reference checks checked out very well and that Ayers performs  
10 his obligations and provides better financial statements than requested.  
11 Matranga describes Ayers as having good character, honesty, and integrity.
- 12 j. Terrance Risse (Risse) has known Ayers for over 20 years. They are good  
13 friends and business partners in Iron Mechanical, where the “Iron” is for Ayers  
14 and the “Mechanical” is for Risse. Iron Mechanical has licenses for plumbing,  
15 heating, air conditioning, underground piping, insulation, and general  
16 contracting. Ayers financially backed the creation of Iron Mechanical and is  
17 involved in its compliance with regulatory requirements. Risse testified that  
18 Ayers follow the rules one hundred percent, including relating to employee  
19 safety and wage and hour regulations. Risse describes Ayers as caring,  
20 trustworthy, brilliant, intelligent, loving, and someone who would do anything  
21 for anybody. Risse testified that Ayers supports the Copper for Kids  
22 Campaign, in which they save copper from construction projects and use the  
23 money to find permanent homes for foster children. Risse has never seen Ayers  
24 be unethical, inappropriate, or skirt any rules. Risse also submitted a letter of  
25 reference in support of Ayers’s Application.
- 26 k. Roy Larry (Larry) is the Senior Pastor at Potter’s House, Church of God and  
27 Christ. Larry met Ayers through his participation in a court-ordered anger  
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1 management class. Larry's letter of reference in support of Ayers is discussed  
2 in further detail below.

- 3 1. Elizabeth Beigh (Beigh) is a commercial lender with Umpqua Bank. Beigh  
4 works with business owners, developers, and principals to address their  
5 commercial lending needs. Beigh also performs personal banking services and  
6 underwriting for business. Beigh has known Ayers since 2001. Beigh managed  
7 the banking for Armour Steel and personal banking for Ayers and his family.  
8 Beigh testified that Ayers has high integrity, and strong and trustworthy  
9 character. Beigh testified that Ayers is a man of his word who has "never not  
10 stood up to terms and agreements" and always paid back his debts. She  
11 testified that Ayers was responsive when she asked for financial documents.  
12 Beigh never questioned Ayers's honesty, veracity, or the accuracy of Ayers's  
13 documents. Beigh testified that Ayers complies with legal regulations. She is  
14 familiar with Ayers's participation and support in charitable events, including  
15 organizations that center on homelessness, at-risk youth, veterans, the Sutter  
16 Hospital, the Sacramento Zoo, and Sacramento City Pools.
- 17 m. Penny Ayers (Penny<sup>2</sup>) is Ayers's wife. They have been married for 39 years,  
18 but were divorced for 6-7 years before getting re-married. Penny describes  
19 their relationship as strong and loving, and states that she loves and admires  
20 Ayers and wants to stay married forever. They have two daughters. Penny  
21 states that Ayers treats their daughters well and teaches them life lessons.  
22 Penny describes Ayers as an honest person that is not out to cheat anybody.  
23 She states that Ayers is an excellent businessman who will do whatever it takes  
24 to succeed. She believes that Ayers will responsibly follow any and all rules  
25 related to controlled gambling. She states that Ayers is smart, has integrity, and

26 <sup>2</sup> The Commission refers to Steven Carl Ayers as "Ayers" throughout the Decision and Order. Rather than  
27 refer to his wife as "Ms. Ayers," the Commission has decided to refer to her by using her first name. It is not intended  
28 to be less formal than using the family name to refer to Steven Ayers. Rather, it is to eliminate any confusion and  
improve readability.

1 is charity-minded. As discussed in more detail below, Penny acknowledged  
2 that their relationship can be frustrating at times. She also testified that Ayers  
3 is a workaholic and acknowledged that Ayers has a problem with alcohol.

4 43. Ayers submitted 48 letters of reference in support of his Application as follows:

- 5 a. Renee and Paul Snider have been friends of Ayers and his wife for more than  
6 30 years. Renee Snider (Snider) states that Ayers is a trusted friend and  
7 advisor, which is based primarily on Ayers's integrity, honesty, and extensive  
8 community engagement. She states that Ayers gave generously both  
9 financially and professionally to the River Oak Center for Children, which  
10 serves children who are severely emotionally disturbed as a result of a lifetime  
11 of abuse. Snider states that Ayers's charitable giving to the River Oak Center  
12 for Children exemplifies Ayers's character, integrity, and generosity. Snider  
13 states that Ayers has served on many nonprofit boards including The River  
14 District, Associated General Contractors of California, Sutter Medical Center  
15 Foundation, and the Policy Board to End Homelessness. Snider states that  
16 Ayers has demonstrated generosity to a multitude of charities including the  
17 River Oak Center for Children, The California Musically Theater, UC Davis  
18 Health System, the Sacramento Zoo, Sutter Medical Center and many more.  
19 Snider states that Ayers is committed to advancing the quality of life in the  
20 community for all residents and the Sniders wholeheartedly support Ayers's  
21 Application.
- 22 b. Michael Corrick, AIA (Corrick) is the Principal of Nacht & Lewis. Corrick has  
23 known and socialized with Ayers and his wife for nearly 20 years, including at  
24 community fundraising events that Ayers has generously supported, such as  
25 the Sacramento Zoo's Wild Affair, Eskaton's Gala supporting seniors in  
26 Sacramento, and the Fregoso Gala in support of wounded military veterans.  
27 Corrick states that Ayers co-organized a business association to streamline the  
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1 development process in the City of Sacramento. Corrick states that Ayers's  
2 company, Armour Steel, provided the steel for an animal exhibit at the  
3 Sacramento Zoo and for renovation of the California District Attorneys  
4 Association's offices. Corrick states that Ayers has been honest, fair, and  
5 generous in all projects and business dealings; that Ayers completes what he  
6 has agreed to on time; and that Ayers makes sure the work has been done right.  
7 Corrick states that Ayers has integrity, credibility, and true concern for the  
8 well-being of his business relationships and friendships. Corrick states that  
9 Ayers's business acumen is well-demonstrated based on his success with  
10 Armour Steel and having built Iron Mechanical into a successful mechanical  
11 contractor. Corrick states that Ayers is a man of passion and perseverance and  
12 that the proposed Elks Tower Casino and Lounge will create additional jobs  
13 and add an amenity to downtown Sacramento.

14 c. Chuck Hack (Hack) is the Principal of the Board of Directors for Lionakis.  
15 Hack states that he has known Ayers personally and professionally for 15  
16 years. Hack states that he sat on the Real Estate and Construction Networking  
17 "RECON" board with Ayers and worked with him on multiple projects. Hack  
18 considers Ayers a confidant and friend. Hack states that Ayers has the highest  
19 level of integrity. Regarding Ayers's professional career, Hack states that  
20 Ayers has attention to detail, does not cut corners, works in a collaborative  
21 partnership, and delivers results. Hack describes Ayers as a well-respected  
22 business leader in the Sacramento community and beyond. Hack states that  
23 Ayers is extremely generous with his philanthropy and donates because it is  
24 the right thing to do.

25 d. John Cooper (Cooper) is a Director with Associated General Contractors of  
26 California. Cooper has known Ayers and his wife for 10 years. Cooper states  
27 that Ayers has consistently proven to be loyal and dedicated in both his  
28

1 personal and professional life. Cooper describes Ayers as a great leader and  
2 team player. Cooper states that Ayers is honest, has respect for others, and has  
3 extreme integrity.

4 e. Anthony G. Scotch (Scotch) is the President of Portico Development, LLC.  
5 Scotch has known Ayers and his wife for 10 years as an investment partner in  
6 several real estate development transactions with Ayers. In their land  
7 development transactions, Scotch describes Ayers as an astute businessman  
8 with a genuinely positive attitude and helpful nature that is honest and faithful  
9 in his commitments to the deal and to his partners. Scotch states that Ayers is  
10 at the top of his list for having character. Scotch states that Ayers is very  
11 willing to be truthful about his feelings and has the ability to receive detailed  
12 information, analyze the big picture, and make tough decisions. Scotch  
13 describes the proposed Elks Tower Casino and Lounge project as perfect for  
14 the city of Sacramento in that it will create additional jobs and tax revenue and  
15 be an additional amenity.

16 f. Thomas F. Stewart (Stewart) is an attorney with Stewart Ward & Josephson.  
17 Stewart has known Ayers for more than 10 years. Stewart is a friend and client  
18 of Ayers and has handled many real estate transactions on Ayers's behalf.  
19 They were also fellow investors in a small real estate project and both are  
20 active in RECON and the Fregoso Outdoor Foundation charity that supports  
21 veterans. Stewart states that Ayers has hosted charitable events in the Elks  
22 Building and that Ayers is generous with his time, money, and expertise. As a  
23 specific example, Stewart states that Ayers wrote a check and supervised the  
24 welding in completing modifications to a vehicle to adapt it for use by disabled  
25 veterans. Stewart describes Ayers as honorable and committed to making  
26 Sacramento a better place. Stewart has never heard anyone question Ayers's  
27 honesty. Stewart states that Ayers is a self-made man with street smarts and  
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1 extensive business experience. Stewart states that the Elks Tower Casino and  
2 Lounge project will create jobs and tax revenue and be a positive addition to  
3 downtown Sacramento.

4 g. William L. Porter (Porter) is an attorney with Porter Law Group, Inc. Porter  
5 has known Ayers for 15 years. He has represented Ayers and his family and  
6 business interests in numerous transactional and litigation matters. Porter  
7 describes Ayers as a great friend and valued client. Porter states that Ayers is a  
8 supporter of industry and civic organizations, including various organizations  
9 promoting beneficial change and growth in the Sacramento region. Ayers is  
10 also a supporter of the American Subcontractors Association and Sacramento  
11 Builders Exchange. Porter has served with Ayers on the board of RECON.  
12 Porter states that Ayers has hosted charitable events and given advice on the  
13 economic interests of industries with which he has been involved. Porter states  
14 that Ayers is a tireless advocate for economic interest and generous with his  
15 time, hard work, and financial resources. Porter states that Ayers loves  
16 Sacramento and wants it to be successful. Porter states that Ayers has excellent  
17 business skills and honest business dealings; that he has never uttered a  
18 falsehood or perpetrated a deception; and that he has a strong moral compass,  
19 work ethic, and unlimited creative energy. Porter states that he is honored to  
20 support Ayers and offers his highest possible recommendation for licensure.

21 h. Theodore J. Oien (Oien) is the Senior Project Manager, Construction Materials  
22 Testing and Inspection, at Kleinfelder West, Inc. Oien has known Ayers  
23 personally and professionally for approximately 25 years. They have traveled  
24 and done business together. Oien describes Ayers as a good friend with  
25 outstanding character and integrity. Oien has witnessed Ayers's philanthropic  
26 efforts. Oien states that Ayers is generous and kind, and provided a specific  
27 example when Ayers organized fundraising events to raise money for an  
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1 associate's wife and two young daughters when the associate was suddenly  
2 killed in a motorcycle accident. Oien also states that Ayers loaned money to  
3 his employees at Armour Steel to assist them in purchasing their first homes.

- 4 i. Henry Chang (Chang) is the President of apiNXT. Chang has been a personal  
5 friend of Ayers for almost 10 years after they met at an Asian Pacific Islander  
6 charity event. Chang states that Ayers has strength of character and community  
7 leadership. Chang states that Ayers has hosted several events and is an active  
8 business leader in the community. Chang states that Ayers has a proven track  
9 record of integrity and truthfulness.
- 10 j. David J. Lucchetti (Lucchetti) is the President and CEO of Pacific Coast  
11 Building Products, Inc. Lucchetti has known Ayers for approximately 12 years.  
12 Lucchetti has had mostly business and community related dealings with Ayers,  
13 and their relationship is exclusively business related. Lucchetti states that he  
14 would work again with Ayers if the circumstances were right for both parties.
- 15 k. Sean Wright (Wright) is the President of the Alkali & Mansion Flats Historic  
16 Neighborhood Association. On January 27, 2017, Wright wrote a letter to  
17 Michael Hanebutt of the Planning and Design Commission. Wright states that  
18 Ayers has met with the Association and presented the Elks Tower Casino and  
19 Lounge project on three separate occasions. Wright states that Ayers has taken  
20 the time to answer all questions and presented a great project. Wright states  
21 that he supports the approval of a conditional use permit for the Elks Tower  
22 Casino and Lounge.
- 23 l. Michael T. Ault (Ault) is the Executive Director of the Downtown Sacramento  
24 Partnership. Ault states that the Downtown Sacramento Partnership supports  
25 Ayers's proposed Elks Tower Casino and Lounge. Ault states that the project  
26 will activate a key area of downtown, provide new jobs, and offer 24 hour  
27 security for businesses located next to the site. Ault states that the proposed  
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1 Elks Tower Casino and Lounge project would be a valuable addition for  
2 downtown Sacramento.

3 m. Mike Testa (Testa) is the President & CEO of Visit Sacramento. Testa wrote a  
4 letter to the Planning & Design Commission in support of Ayers's proposed  
5 Elks Tower Casino and Lounge. Testa states that the Elks Tower Casino and  
6 Lounge would be a diverse addition, activate a key area of downtown, and  
7 create 200 new jobs.

8 n. Steven Hansen (Hansen) is Councilmember for the City of Sacramento.  
9 Hansen states that his district values the partnership and investment in the city  
10 of Sacramento that the proposed Elks Tower Casino and Lounge demonstrates.

11 o. Brent J. Meyer (Meyer) is the Vice President and serves on the Board of  
12 Directors for the Peace Officers Research Association of California. Meyer has  
13 known Ayers for nearly 10 years in both personal and professional capacities.  
14 Meyer worked closely with Ayers while serving as Director on the River  
15 District Board of Directors, a business improvement district within the City of  
16 Sacramento. Meyer states that Ayers has deep roots in the community; has  
17 demonstrated an awesome commitment to strive for a healthy and thriving  
18 business climate; and has a relentless desire to seek ways to find solutions to  
19 the city's problems. Meyer states that Ayers has worked with local homeless  
20 service provider Loaves 'n Fishes to try and address a need at their woman's  
21 shelter. Meyer states that Ayers demonstrates compassion, a willingness to  
22 hear all sides of an issue, and the ability to achieve compromise. Meyer  
23 describes Ayers as well-read, educated, and a man with a genuine sense of  
24 right and wrong. Meyer is heartened by Ayers's view of the world. Meyer  
25 states that Ayers's philanthropy is well-known. Meyer states that Ayers has  
26 integrity, is trustworthy, and is a man of his word. Meyer states that you can  
27 count on Ayers to follow through on what he says. Meyer describes Ayers as  
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1 truthful and credible, and states that he is honored to support Ayers's  
2 Application.

3 p. Paul Spence (Spence) is the Director of davisREED Construction, Inc. Spence  
4 met Ayers through Armour Steel and has known Ayers for 13 years. They  
5 became good friends following their business relationship. Spence states that  
6 Ayers saved the Community College Project a considerable amount of money  
7 through his leadership. Spence states that Ayers has professionalism,  
8 knowledge, vision, generosity, and a zest for life. Spence describes Ayers as  
9 genuine, brilliant, and a fantastic businessman. Spence believes that the  
10 proposed Elks Tower Casino and Lounge will create jobs and be a quality  
11 amenity that will exceed expectations.

12 q. Andrew F. Sackheim (Sackheim) is an attorney with Real Estate Law Group  
13 LLP. Sackheim has represented Ayers and some of his business entities for  
14 more than 20 years and they have become personal friends. Sackheim  
15 describes the honor and privilege of watching Ayers expertly achieve  
16 accomplishments. Sackheim describes Ayers as diligent, committed,  
17 hardworking, honest and skillful in business, and philanthropic, with a  
18 consistent and well-known reputation for being a man of his word. Sackheim  
19 deeply values the years he spent working with Ayers. Sackheim states that  
20 Ayers has an exceptional business acumen, and that Ayers is exceptionally  
21 hard working and spares no detail in achieving many and diversified  
22 objectives. Sackheim further describes Ayers as honest, trustworthy, and  
23 extremely loyal. Sackheim states that Ayers was very successful with Armour  
24 Steel and Iron Mechanical. Sackheim states that the proposed Elks Tower  
25 Casino and Lounge will be a great amenity that will create jobs and enhance  
26 downtown.

27 r. Jim Dunger (Dunger) is the Corporate Sales Manager of Pace Supply. Dunger  
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1 has known Ayers for the better part of 10 years and they have interacted both  
2 personally and professionally, including having conducted an enormous  
3 amount of business together. Dungen states that Ayers is a man of his word,  
4 demonstrates ethics, has the utmost grace and class, and is a great and  
5 supportive friend and mentor.

6 s. Fred Springer (Springer) is a shareholder, officer, and Broker of Record for  
7 CMD Services, Inc. Springer has worked with Ayers on various business  
8 dealings. Springer states that Ayers was able to make necessary seismic  
9 retrofits to the Elks Tower building. Springer states that Ayers is honest, has a  
10 strong work ethic, and that you can count on his word.

11 t. Dan DeWald (DeWald) works for Dan Dewald, Inc. DeWald met Ayers at a  
12 civic fundraiser and has known Ayers for over 25 years. They have attended  
13 many community fundraisers together. DeWald states that Ayers is civic-  
14 minded and actively promotes numerous worthy causes in the community.  
15 DeWald is impressed with the job that Ayers has done renovating the Elks  
16 Tower building. DeWald states that Ayers is open, friendly, helpful, honest,  
17 savvy, and a successful businessman and engaged citizen with unquestioned  
18 integrity.

19 u. Dennis B. Cook (Cook) is an attorney with Cook Brown LLP. Cook has  
20 known Ayers personally and professionally for over 25 years. Cook describes  
21 Ayers as a client and friend. Cook states that Ayers has a strong business  
22 acumen, a love of Sacramento, and a genuine enthusiasm and dedication for  
23 Sacramento's economic growth. Cook states that Ayers is a successful  
24 entrepreneur, business owner, manager, and community leader. Cook states  
25 that Ayers has dedication, a strong work ethic, insight, and expertise. Cook is  
26 confident in Ayers's ability to manage future business projects. Cook describes  
27 Ayers as hardworking and honest, and states that Ayers has earned his  
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1 professional reputation and the respect of his peers. Cook also states that Ayers  
2 is a man of action and his word, is supported by the located business  
3 community, and possesses personal integrity, an unwavering work ethic, and  
4 strong moral character.

- 5 v. John Neumann (Neumann) has known Ayers and his wife for over 15 years.  
6 Neumann states that Ayers is a stand-up guy and describes Ayers as attentive,  
7 fair, trustworthy, honest, truthful, and generous. Neumann states that Ayers is  
8 an inspiration and a mentor. Neumann states that Ayers has a passion for  
9 business and cares about the people of Sacramento.
- 10 w. Peter B. Dannenfelser II (Dannenfelser) owns and operates a small  
11 architectural firm called Architectural Arts. Dannenfelser has known Ayers for  
12 almost 30 years as a client, landlord, business partner, and friend. Dannenfelser  
13 states that he trusts Ayers completely and thinks of him as a brother.  
14 Dannenfelser states that Ayers's word is his bond. Dannenfelser states that  
15 Ayers is honest, hard-working, supportive, and well-known for philanthropic  
16 giving.
- 17 x. Howard Shempp (Shempp) is a dentist. Shempp has known Ayers for more  
18 than 10 years. Shempp describes Ayers as kind and generous. Shempp  
19 provided an example where Ayers asked him to examine a young lady badly in  
20 need of dental work with no price restrictions. Shempp states that Ayers met  
21 the young lady's father at a restaurant opening and learned that the family did  
22 not have the financial resources for her dental care. Shempp states that Ayers  
23 authorized an extensive treatment plan over \$10,000. Shempp states that Ayers  
24 is incredibly hard working, treats others with respect, and sets a standard that  
25 Shempp hopes to live up to.
- 26 y. Rohit Ranchhod (Ranchhod) has known Ayers and his wife for over 20 years.  
27 Ranchhod states that Ayers possesses strong and honorable character, and  
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1 dedication and passion for creating value for City of Sacramento. Ranchhod  
2 states that Ayers is a stand-out individual who dedicates and invests his time,  
3 heart, and energy into everything he does. Ranchhod describes Ayers as a man  
4 of his word, someone mindful of his staff and partners who keeps everybody's  
5 best interests at heart. Ranchhod states that Ayers is well-versed in  
6 construction and real estate development. Ranchhod states that Ayers has  
7 undeniable talent, is wonderful to work with, and is generous, smart, and  
8 gracious.

9 z. Terence J. Green (Green) is the Principal of Williams + Paddon Architects +  
10 Planners, Inc. Green has known Ayers for nearly 20 years as a friend and in the  
11 construction industry. Green has witnessed Ayers's growth as family man,  
12 entrepreneur, and supporter of the community. Green states that Ayers makes  
13 wise business decisions, and that Ayers's success comes from his visionary  
14 ability and solid business practices. Green also states that Ayers has great  
15 integrity and a well-thought out vision of the proposed Elks Tower Casino and  
16 Lounge.

17 aa. Steven L. Diede (Diede) has known Ayers for over 10 years. They have  
18 socialized and worked together in the construction industry for many years.  
19 Diede describes Ayers as a trusted colleague and friend. Diede states that  
20 Ayers has proven to have upstanding character and is a key pillar within the  
21 Sacramento community. Diede states that Ayers has invested his time, money,  
22 and energy into creating a better Sacramento through business ventures and  
23 philanthropic activity. Diede describes Ayers as transparent, reliable,  
24 motivated, always conscious of his partners and clients' best interests, and  
25 willing to go beyond the call of duty to successfully accomplish any project.  
26 Diede states that Ayers's knowledge and understanding of the human condition  
27 has permitted him to excel in all aspects of life.  
28

1 bb. Gary L. Pevey (Pevey) is the President of Wealth Design Group. Pevey has  
2 known Ayers for more than 20 years as both his friend and his family's  
3 financial advisor. Pevey states that Ayers is very knowledgeable and  
4 supportive of the opinions of diverse stakeholders. Pevey states that Ayers  
5 works endlessly to produce a great product, tirelessly manages his businesses,  
6 and publicly supports those with great ideas. Pevey states that Ayers is  
7 committed to his family and that his personal skills allow him to thrive in  
8 chaos. Pevey states that Ayers has the self-discipline to deliver on  
9 commitments, and the integrity and honesty to stay truthful for the betterment  
10 of all those involved.

11 cc. Emil G. Tung (Tung) is an attorney with Real Estate Law Group LLP. Tung  
12 has known Ayers for over 15 years. Tung describes Ayers as a valued client  
13 and friend. Tung states that Ayers has a hardworking demeanor and has had  
14 positive, long-lasting effects on the community through his benevolent  
15 personality and entrepreneurial success as a contractor and real estate  
16 developer. Tung states that Ayers has strong business expertise, is clear in his  
17 goals and directions, is well-spoken, is considerate of others, and is true to his  
18 word. Tung describes Ayers as someone who is honest, forthright, and loyal.  
19 He states that Ayers has strong character, a willingness to collaborate, and that  
20 Ayers achieves the goals that he sets for himself. Tung also mentioned Ayers's  
21 widespread philanthropic contributions and professionalism.

22 dd. W.W. Applegate, Jr. (Applegate) is the Senior Vice President of Colliers  
23 International. Applegate sold Ayers a building more than 25 years ago. They  
24 have since traveled and participated in a dune buggy race together. Applegate  
25 describes the Ayers as a great family. Applegate states that his business  
26 dealings with Ayers are easy because of Ayers's character, integrity, and  
27 credibility. Applegate states that Ayers is genuine and honest, and was fair and  
28

1 equal on their real estate dealings.

2 ee. Ali Malaekheh (Malaekheh) is the Director of Project Management for Z Squared  
3 Construction. Malaekheh has worked with Ayers and been close friends with  
4 him for almost 20 years. They travel and eat meals together. Malaekheh states  
5 that Ayers's drive, commitment, and professionalism has created common trust  
6 and mutual success. Malaekheh states that they share core values. Malaekheh  
7 describes Ayers as genuine, honest, truthful in his business and personal life,  
8 and someone of the highest character. Malaekheh states that Ayers's  
9 overwhelming reliability creates a confident working environment.

10 ff. Jeffrey Hall (Hall) is the President, CEO and owner of Paragon Construction  
11 Consulting. Hall met Ayers in late 2015. Hall states that Ayers provided  
12 HVAC and plumbing on the Kimpton Sawyer Hotel and Sawyer Residences in  
13 Sacramento. Hall states that Ayers has true character and integrity and created  
14 a culture of honesty and integrity throughout his organization. Hall states that  
15 Ayers negotiated in good faith and with honest business practices.

16 gg. Terry Risse (Risse) is the President of Iron Mechanical, Inc. Risse has known  
17 Ayers for over 20 years and describes Ayers as one of his closest friends. Risse  
18 states that they have a strong professional and personal relationship. Risse  
19 states that Ayers was the main investor in Iron Mechanical. Risse describes  
20 Ayers as an amazing business partner, honest, and dependable. Risse states that  
21 Ayers has strong business acumen, insight, and empowered him in the  
22 operation of the business. Risse states that Ayers has integrity, is professional,  
23 fair, and trustworthy, and has helped others start their first businesses. Risse  
24 states that Ayers has an enormous heart, and has been an incredible supporter  
25 of the Copper for Kids campaign, which aims to remove local foster youth out  
26 of the system and place them into permanent, loving homes. Risse states that  
27 Ayers's passion, investment of personal time, and generous contributions have  
28



1 helped place over 20 children into permanent homes in 2017. Risse states that  
2 he is proud to have Ayers as a business partner and a friend.

3 hh. Eric F. Campbell (Campbell) is the President of Westcon Construction  
4 Corporation. Campbell met Ayers in approximately 1993. Campbell states that  
5 Ayers had meticulous attention to detail as a subcontractor, consistently  
6 performed well beyond his contractual obligations, was a team player, and that  
7 Ayers's direct involvement led to a successful project and friendship. They  
8 worked together on numerous other projects. Campbell states that he could  
9 count on Ayers; that Ayers was highly skilled, genuine in nature, honest, and  
10 went beyond the call of duty; and that Ayers was a major contributing factor to  
11 his success. Campbell also states that Ayers is charitable and has good business  
12 sense.

13 ii. Michael A. Schneider (Schneider) is the President of Mascon Inc. Schneider  
14 has known Ayers since October 1992. Schneider states that Ayers always  
15 completed his construction projects on time while working as a subcontractor  
16 and that their business ventures together were all successful. Schneider states  
17 that they are personal friends who have dinner and go on trips together.  
18 Schneider states that Ayers was involved on the YMCA Board. Schneider  
19 describes Ayers as honest, trustworthy, and man of integrity.

20 jj. David Conner (Conner) is the CEO of RECON Networking, Inc. Conner has  
21 known Ayers for 10 years and stated that they have a close friendship and a  
22 business relationship that is based on respect, communication, and openness.  
23 Conner states that Ayers has hosted in excess of 40 highly successful RECON  
24 events, and that Ayers has served on the Board of Directors of RECON for 8  
25 years. Conner states that Ayers has been selflessly involved in the planning and  
26 execution of fundraising events. Conner describes Ayers as an honorable  
27 person, fair, equitable, and sincere in his promises and commitments.  
28

1 kk. Wyatt Jones (Jones) works for Airco Mechanical, Inc. Jones has known Ayers  
2 for over 10 years. Jones states that he and Ayers have served on many trade  
3 association boards of directors and worked side by side on construction  
4 projects. Jones describes Ayers as a great friend, an outstanding  
5 businessperson, and a supporter of industry and civic organizations. Jones  
6 states that Ayers is genuine, honest, truthful, and devoted to Sacramento. Jones  
7 also states that Ayers has integrity, credibility, a solid work ethic, and  
8 wonderful morals.

9 ll. Scott C. Syphax (Syphax) is the President and CEO of Syphax Strategic  
10 Solutions, an economic and community development advisory firm. Syphax  
11 has known Ayers professionally and socially since 2002. Syphax states that  
12 Ayers was the first to reach out and offer to educate and bring Syphax's team  
13 up to speed on Sacramento. Syphax states that Ayers vouched for Syphax's  
14 young company and supported the organization's efforts in economic  
15 development and community revitalization. Syphax states that Ayers is a friend  
16 who offers mentorship and support. Syphax describes Ayers as generous, both  
17 financially and with his personal time. Syphax states that Ayers is a successful  
18 and ethical businessman who is direct, fair, trustworthy, and will follow  
19 through. Syphax also states that Ayers invests in his community, and has  
20 demonstrated business acumen and a commitment to elevate the economic  
21 prospects of diverse communities.

22 mm. J. Scott Flanagan (Flanagan) is the Executive Director of Compassion  
23 Planet, whose mission is to help aged-out foster youth overcome obstacles in  
24 order to thrive in life. Flanagan has known Ayers for nearly 5 years and states  
25 that writing a letter of reference for Ayers was an easy decision. Flanagan  
26 states that Ayers has helped create jobs, improved our communities, and  
27 embedded himself into a thriving business community. Flanagan describes  
28

1 Ayers as a kind-hearted humanitarian who generously shares his business  
2 successes. Flanagan states that he understands that Ayers has a proven record  
3 of charitable giving over the past 30 years.

4 nn. Gregory Walaitis (Walaitis) is the Director of Philanthropy and Becky  
5 Thompson (Thompson) is the Director of Planned Giving with Sutter Health  
6 Philanthropy, which provides support to the Sutter Medical Center Foundation.  
7 Walaitis and Thompson state that Ayers is a member of the Sutter Legacy  
8 Society and wrote a letter to thank Ayers for his outstanding support.

9 oo. David R. Stuart (Stuart) is the Museum Site Manager of Sacramento History  
10 Alliance. Stuart wrote a letter to Ayers to thank him for his \$10,000  
11 sponsorship donation for the fundraising event “A Roast of Johan Otto,” which  
12 benefitted the Sacramento History Alliance.

13 pp. Jennifer A Stolo (Stolo) is the President and Chief Executive Officer of Make-  
14 A-Wish. Stolo wrote a letter to Ayers to thank him for supporting their  
15 charitable Texas Hold-Em Poker Tournament which helped raise \$221,000 to  
16 help grant wishes for children.

17 qq. Joel Cardenas (Cardenas) is the Executive Director of Youth Sports Solutions.  
18 Cardenas states that Ayers put on a charity gala fundraiser for 91SIX Equal  
19 Opportunity Education programs and offered his venue at the Elks Tower  
20 building at a fraction of the cost and provided all the amenities of the Elks  
21 Tower building at no cost. Cardenas also states that Ayers promoted the event,  
22 brought attendees, and personally donated over \$30,000 to charity.

23 rr. Kit Miyamoto (Miyamoto) is the President and CEO of Miyamoto  
24 International, a global earthquake structural engineering company, and  
25 Miyamoto Global Disaster Relief, a non-profit technical organization.  
26 Miyamoto has known Ayers for 28 years and interacted with him  
27 professionally on a wide variety of projects (approximately 50). Miyamoto  
28

1 states that he was never disappointed in his business dealings with Ayers, and  
2 that Ayers was fair, honest, transparent, genuine, and has integrity and  
3 credibility. Miyamoto states that Ayers is one of the best businessmen and  
4 cares deeply about Sacramento. Miyamoto states that he trusts Ayers and  
5 would continue working with him on projects. Miyamoto also states that Ayers  
6 has been a board member for Miyamoto's charity since its inception in 2011,  
7 and that Ayers traveled with him to Haiti after the destructive earthquake in  
8 2010 to volunteer his time for the non-profit.

9 ss. Steve Goodwin (Goodwin) is the Director of Development for First Capital  
10 RE. Goodwin has known Ayers for approximately 20 years. Goodwin states  
11 that both of them served on the board of directors and were active in helping  
12 The River District and Downtown Sacramento raise grant funds for  
13 infrastructure, which required a tremendous number of long days and nights.  
14 Goodwin states that Ayers is a quality human being and that when Ayers  
15 believes in something he puts his heart and soul into making it happen.  
16 Goodwin states that Ayers works harder than anyone and is there when you  
17 need him. Goodwin also states that Ayers supports philanthropic efforts and  
18 has demonstrated a commitment to Sacramento.

19 tt. L. Frank Velutini (Velutini) is the Chief Executive Officer of Royal Electric  
20 Co. Velutini has known Ayers for over 20 years. Velutini's company worked  
21 on construction projects alongside Armour Steel and Iron Mechanical. Velutini  
22 describes Ayers as a straightforward and trustworthy customer and  
23 subcontractor whose companies reflect his leadership. Velutini states that  
24 Ayers follows through on his business commitments, is well respected in  
25 industry, handles himself with integrity, and remains committed to a project  
26 once he commits. Velutini also describes Ayers as a trustworthy friend.

27 uu. David Sobon (Sobon) is the Founder and CEO of Wide Open Walls, the largest  
28

arts and festival on the west coast. Sobon is a non-profit consultant, fundraiser, auctioneer, and event producer. Sobon states that Ayers has invested nearly \$100,000 in cash and in-kind services to his non-profit. Sobon also states that as an auctioneer for most of the region's live auctions, that he is very familiar with Ayers's philanthropic contributions. Sobon states that he and Ayers have dined and socialized together, and that their business dealings were mutually beneficial. Sobon states that Ayers is a good businessman with integrity and credibility, and is a great negotiator and honest person.

vv. Sean B. Donerty Sr. (Donerty) has known Ayers for 25 years on a professional and personal level. Donerty states that Ayers is an outstanding candidate, an exceptional operator, and a valued member of the community. Donerty has worked with Ayers professionally and states that Ayers has demonstrated a thoughtful, steady, and deliberate manner. Donerty states that Ayers is never rash or reactionary, and that his decisions are salient to the situation and sensitive to all involved. Donerty describes Ayers as a steadfast and loyal friend, always available to lend an ear or helping hand. Donerty states that Ayers deeply loves his family and is dedicated to their well-being. Donerty also states that Ayers demonstrates humility, a willingness to accept his shortcomings, face them head on, and work to correct them.

44. The collective testimony on Ayers's behalf favorably discussed Ayers's personal attributes, work history, relationships, and philanthropic and charitable giving. Ayers's character witnesses testified that Ayers is hard-working, generous, civic-minded, charitable, honorable in business dealings, fair, capable, well-respected, dedicated, and helpful. The collective testimony is that he is a person of good character, honesty, and integrity.

## **IX. Ayers's Criminal History**

### ***A. High Speed Tickets in Las Vegas, Nevada***

45. Ayers received a citation for driving a motor vehicle at a high rate of speed and

1 making numerous unsafe lane changes in and out of other vehicles in a dangerous manner on May  
2 7, 1985. Ayers disclosed this citation/conviction on his Application, where he states that  
3 approximately 30 years ago he was pulled over while driving, detained, and brought down to the  
4 county jail in Las Vegas, Nevada. Ayers was given the choice to sign two “tickets” or be booked  
5 in the county jail. The tickets were high speed related. Ayers signed the two tickets. Ayers  
6 believes he pled “no contest” to the tickets and paid a fine. This citation/conviction is over 30  
7 years old and was disclosed by Ayers. As a result, this citation/conviction has no negative impact  
8 on the suitability of Ayers for licensure.

9 ***B. Driving Under the Influence of Alcohol: 2011***

10 46. On or about April 15, 2013, Ayers was convicted of violating Vehicle Code section  
11 23152(b), driving with 0.08% or more, by weight, of alcohol, with enhancement for excessive  
12 blood alcohol or refusal to take a chemical test pursuant to Vehicle Code section 23578, a  
13 misdemeanor, in the case of *People v. Steven Carl Ayers* (Super. Ct. Yolo, 2011, CRM 11-5205).  
14 This conviction arises out of an arrest date of October 6, 2011. This incident will be known as the  
15 “2011 DUI.” Ayers disclosed the 2011 DUI on his Application.

16 47. The factual circumstances surrounding the 2011 DUI according to the police report are  
17 as follows:

- 18 a. Officer McChesney witnessed the motor vehicle driven by Ayers traveling  
19 back and forth between two lanes. Officer McChesney activated the patrol  
20 vehicle’s red lights. Ayers yielded to the right and pulled over.
- 21 b. Officer McChesney approached Ayers’s vehicle and attempted to contact him  
22 through the open right front window. After getting to the right front door,  
23 Ayers’s vehicle began to roll backwards. Officer McChesney yelled to Ayers  
24 twice to stop the car. Ayers responded that he was stopped. Officer  
25 McChesney yelled again for Ayers to stop the car. Ayers again responded that  
26 he was stopped. Ayers’s vehicle rolled back and struck the front of Officer  
27 McChesney’s patrol car. Officer McChesney again yelled for Ayers to stop the  
28

1 car. After Ayers's vehicle came to a stop with its rear bumper against the push  
2 bumpers of Officer McChesney's patrol vehicle, Officer McChesney told  
3 Ayers to put his vehicle in park. Ayers responded that the vehicle was in park;  
4 however, Officer McChesney could see that the vehicle's automatic gear  
5 shifter was in reverse.

6 c. Officer McChesney asked Ayers for his driver's license. Ayers had a blank  
7 look on his face and appeared to be confused. Ayers visually looked around his  
8 vehicle, took out his wallet, and looked back at the officer. Officer McChesney  
9 again asked Ayers for his driver's license. Ayers again visually looked around  
10 his vehicle and then looked back at the officer.

11 d. Officer McChesney could smell the odor of an alcoholic beverage emitting  
12 from Ayers's vehicle. Officer McChesney asked Ayers how much he had to  
13 drink. Ayers said that he had "nothing." Officer McChesney again asked Ayers  
14 for his driver's license. Ayers looked around his vehicle and then handed the  
15 officer a work identification that was in the center console. Officer McChesney  
16 again asked Ayers for his driver's license. Ayers then produced his driver's  
17 license.

18 e. Officer McChesney asked Ayers if his address on the driver's license was  
19 current and Ayers related that it was. Officer McChesney then asked Ayers for  
20 his registration and insurance. Ayers opened the glove box and looked back at  
21 the officer. When Ayers spoke, his speech was slow.

22 f. Officer McChesney asked Ayers whether he was diabetic or epileptic. Ayers  
23 stated he was. Officer McChesney twice asked Ayers which one. Ayers  
24 eventually said he was diabetic, and related that he did not feel good and that  
25 he felt like he does when he is having issues with diabetes. Officer McChesney  
26 requested an ambulance for Ayers due to Ayers's statement that he has  
27 diabetes.  
28

- 1 g. Officer McChesney again asked Ayers for his registration and insurance. Ayers  
2 looked in the glove box and handed the officer his vehicle registration. Officer  
3 McChesney asked Ayers for his insurance. Ayers looked in the glove box, took  
4 out an envelope, put the envelope back in, and looked at the officer. Officer  
5 McChesney again asked Ayers for his insurance. Ayers reached back into the  
6 glove box and provided the officer with his insurance.
- 7 h. The Davis Fire Department arrived on the scene and spoke with Ayers. Ayers  
8 was uncooperative and refused to exit his vehicle to speak with the firefighters.  
9 Emergency responders arrived on scene and Ayers agreed to exit his vehicle  
10 and get on the gurney. Once in the back of the ambulance, Ayers was  
11 uncooperative and would not let the emergency responders check his blood  
12 sugar.
- 13 i. Based on Ayers's driving and not recognizing that he had reversed into the  
14 patrol vehicle, the objective signs of intoxication, which includes the odor of  
15 an alcoholic beverage emitting from Ayers's motor vehicle, and Ayers's  
16 refusal to accept medical treatment, Officer McChesney formed the opinion  
17 that Ayers was operating his vehicle while under the influence of alcohol.  
18 Officer McChesney advised Ayers that he was under arrest for DUI. Ayers was  
19 non-responsive and just stared at the officer.
- 20 j. Ayers was then transported to Sutter Davis Hospital. Ayers was uncooperative  
21 at the hospital. Ayers would not speak with the nurses or the doctor. The  
22 medical personnel requested to check his blood sugar and Ayers refused. Ayers  
23 crossed his arms in front of his chest. Officer McChesney advised Ayers of  
24 implied consent and Ayers did not respond. Officer McChesney read implied  
25 consent to Ayers and Ayers did not give a verbal response to whether he would  
26 take a test. Officer McChesney advised the driver about the forcible blood  
27 draw and Ayers was unresponsive and kept his arms folded across his chest.  
28



1 Ayers's arms had to be physically moved by two officers and medical  
2 personnel. A registered nurse attempted to draw blood from Ayers's right  
3 hand. Ayers kept moving so that she could not draw blood. Restraints had to be  
4 used by the nurse to hold Ayers's right arm at his side. The nurse was then able  
5 to draw blood from Ayers's right arm. Ayers was then transported to Yolo  
6 County Jail for booking. No field sobriety tests were conducted because of  
7 Ayers's unresponsiveness.

8 k. On the Arrest/Investigation Report, Officer McChesney noted that Ayers "was  
9 so intoxicated as to be a danger to himself/herself or others" and "would be  
10 reasonably likely to continue the offense or offenses, or the safety of persons  
11 or property would be imminently endangered if immediately released."

12 48. During the evidentiary hearing, Ayers testified that he does not dispute anything in the  
13 2011 DUI Arrest/Investigation report.

14 49. In a written statement to the Bureau, Ayers stated that he was "of the opinion that his  
15 borderline diabetes had something to do with the incident." However, Ayers never produced any  
16 medical evidence that he has diabetes or is borderline diabetic.

17 50. Driving under the influence of alcohol is a very serious crime that places the general  
18 public at a substantial risk of great bodily harm or death. The evidence shows that Ayers was so  
19 intoxicated that he was unable to tell whether he put his car in park or reverse when the officer  
20 pulled him over, calling into question Ayers's basic judgment in getting into his car in the first  
21 place.

22 51. Ayers compounded that questionable judgment by being demonstrably uncooperative  
23 with police officers and trained medical personnel in a hospital, in an apparent effort to conceal  
24 that he had consumed enough alcohol to place him beyond the legal limits of operating a motor  
25 vehicle.

26 ***C. Driving Under the Influence of Alcohol: 2013***

27 52. Also on or about April 15, 2013, Ayers was convicted of a second violation of Vehicle  
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1 Code section 23152(b), driving with 0.08% or more, by weight, of alcohol, with enhancement for  
2 excessive blood alcohol or refusal to take chemical test pursuant to Vehicle Code section 23578, a  
3 misdemeanor, in the case of *People v. Steven Carl Ayers* (Super. Ct. Yolo, 2013, CR 13-611).  
4 This conviction arises out of an arrest date of January 19, 2013. This incident will be known as  
5 the “2013 DUI.” Ayers disclosed the 2013 DUI on his Application.

6 53. The factual circumstances surrounding the 2013 DUI according to the police report are  
7 as follows:

- 8 a. Officer Hanna was notified by dispatch of a disabled motorist in the area of I-  
9 80 eastbound at Mace Boulevard in Davis, California. While in route, Officer  
10 Hanna was notified by dispatch of a reckless driver traveling on I-80  
11 westbound. Officer Hanna observed a silver Honda Civic with its hazard lights  
12 on. The driver was honking the horn and the occupants were waving and  
13 pointing in a direction directly in front of the Honda. Officer Hanna traveled in  
14 front of them and observed Ayers’s vehicle weaving in a serpentine fashion.  
15 Officer Hanna realized that Ayers’s vehicle was possibly the same vehicle that  
16 a motorist had called in for reckless driving.
- 17 b. Officer Hanna positioned the police vehicle directly behind Ayers’s vehicle.  
18 Ayers’s vehicle continued to weave in a serpentine fashion within the lane.  
19 Ayers’s vehicle was paced at approximately 50 mph in a 65 mph zone. Officer  
20 Hanna asked dispatch for a description of the vehicle that was called in for  
21 reckless driving and it matched the description of Ayers’s vehicle.
- 22 c. Officer Hanna initiated an enforcement stop by activating the vehicle’s  
23 emergency lights after observing Ayers’s vehicle’s left side tires straddling the  
24 broken white lines and botts dots that separate the lanes. Ayers reacted by  
25 accelerating and continuing westbound. As Ayers continued to ignore the  
26 emergency lights, Officer Hanna activated the vehicle’s siren. Ayers did not  
27 react to the siren and continued to travel westbound onto the off-ramp for  
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1 Mace Boulevard. While following Ayers's vehicle, Officer Hanna told the  
2 driver to pull over to the right. Ayers signaled right but continued northbound  
3 on Mace Boulevard and traveled toward the shoulder but would not stop.  
4 Officer Hanna told Ayers several times to stop his vehicle via the PA system.  
5 Ayers ignored Officer Hanna's commands. Officer Hanna notified dispatch of  
6 a failure to yield. Ayers made a right turn into the Ikeda Fruit Market parking  
7 lot and came to a complete stop. Officer Hanna followed Ayers and came to a  
8 complete stop behind his vehicle.

- 9 d. Ayers opened up the driver's side door and exited. Officer Hanna told Ayers to  
10 stay in the vehicle but Ayers ignored the command. Ayers began walking back  
11 toward Officer Hanna, who noticed Ayers walked slowly and deliberately and  
12 seemed unsteady on his feet. Officer Hanna explained to Ayers why he was  
13 stopped. Officer Hanna noticed that Ayers exhibited signs of alcoholic  
14 beverage intoxication. Officer Hanna could smell the odor of an alcoholic  
15 beverage coming from Ayers's breath, his eyes were red and watery, and his  
16 speech was slow and slurred. Officer Hanna asked Ayers for his driver's  
17 license. Ayers walked back to his vehicle. Ayers fumbled around his jacket for  
18 his wallet and handed Officer Hanna his driver's license. Ayers told Officer  
19 Hanna multiple times that he was almost home in Davis.
- 20 e. Officer Hanna had Ayers follow him or her to the right front the police vehicle.  
21 After Ayers reached the requested location, Ayers once again explained that he  
22 was almost home. Officer Hanna asked Ayers if he had any alcoholic  
23 beverages to drink earlier in the day. Ayers stated that he had nothing. Officer  
24 Hanna asked Ayers if he was lying. Ayers stated "no." Officer Hanna  
25 explained to Ayers that he or she could smell the odor of an alcoholic beverage  
26 coming from his breath. Officer Hanna told Ayers to answer some pre-field  
27 sobriety test questions followed by a series of field sobriety tests. After asking  
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1 Ayers several pre-field sobriety test questions, Ayers became argumentative  
2 and stopped answering Officer Hanna's questions. Officer Hanna asked Ayers  
3 if he was refusing to answer any more of the pre-field sobriety test questions.  
4 Ayers did not say anything. Officer Hanna asked Ayers if he would take any of  
5 the field sobriety tests. Ayers looked away and would not answer the question.  
6 Officer Hanna explained to Ayers that if he did not respond to the questions,  
7 Officer Hanna would consider his silence to mean he was being uncooperative.  
8 Ayers would not respond to Officer Hanna's statement. Based on observations  
9 regarding Ayers's driving and objective signs of intoxication, Officer Hanna  
10 formed the opinion that Ayers was driving under the influence of an alcoholic  
11 beverage.

12 f. Officer Hanna placed Ayers under arrest and seated him in the right rear seat  
13 of the police vehicle. Ayers then passed out. Ayers was transported to the  
14 California Highway Patrol—Woodland area office.

15 g. After arriving at the office, Officer Hanna asked Ayers if he would take a  
16 chemical test. Ayers stated multiple times that he was not refusing to take a  
17 test. Officer Hanna asked Ayers if he would take a chemical test again and to  
18 pick either a blood or breath test. Ayers stated "Officer, Officer." Officer  
19 Hanna asked Ayers if he was going to take a chemical test. Ayers stated  
20 "Officer, Officer, Officer, Officer" but would not state what test he wanted to  
21 take. At this point, it appeared to Officer Hanna that Ayers was refusing to  
22 cooperate. Ayers then stated that he wanted to talk to Officer Hanna. Officer  
23 Hanna explained to Ayers that he needed to pick a test. Ayers stated that he  
24 was not refusing and would take a breath test.

25 h. Officer Hanna prepared the breath machine and told Ayers to blow into the  
26 machine. Ayers turned his head and stated that he wanted to talk. Officer  
27 Hanna told Ayers it was not time to talk and that he or she would talk to Ayers  
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1 after the test. Ayers stated that he wanted to talk and that he was not refusing  
2 the test. Officer Hanna told Ayers that although he was saying he was not  
3 refusing, his physical actions were saying otherwise. Ayers stated that he was  
4 not refusing and repeatedly stated "Officer, Officer." Officer Hanna told Ayers  
5 that he has 30 seconds to talk. Ayers would not speak and stared at Officer  
6 Hanna and complained about the time constraint. Officer Hanna told Ayers  
7 they would talk after the test. Ayers stated "Officer, Officer." Officer Hanna  
8 told Ayers that he or she would discontinue the test because Ayers was not  
9 cooperating. Ayers stated that he was not refusing and wanted to talk. Officer  
10 Hanna told Ayers to once again talk and that he would have two minutes.  
11 Ayers then stated that was not enough time and complained about the time  
12 constraint. Ayers then spoke to Officer Austin who was assisting Officer  
13 Hanna. Ayers told Officer Austin he wanted to speak. Officer Austin told  
14 Ayers to speak to him. Ayers then went silent and would not speak to Officer  
15 Austin. Ayers then stated he wanted to speak to Officer Hanna, who told Ayers  
16 that he would have to take a breath test. Ayers stated that he would take a  
17 breath test. Once again, Officer Hanna attempted to have Ayers blow a breath  
18 sample into the breath machine, but Ayers would not and stated that he wanted  
19 to talk. Officer Hanna told Ayers he needed to cooperate and to blow into the  
20 machine. Ayers continued to talk about how unjust his situation was and that  
21 he was not refusing. Officer Hanna again told Ayers that his statements may  
22 say he is cooperating but his physical actions were not.

- 23 i. Officer Hanna then read Ayers the Chemical Test Admonition. As Officer  
24 Hanna was speaking, Ayers angrily spoke over Officer Hanna. Ayers only  
25 stopped talking over Officer Hanna when Officer Hanna read Ayers the  
26 questions. After reading the admonition to Ayers, Ayers refused to take a  
27 blood test and stated he wanted a breath test. Officer Hanna told Ayers that  
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1 although he stated he wanted a breath test, Officer Hanna was going to conduct  
2 a non-consensual blood draw because of Ayers's prior actions. Ayers stated he  
3 was not going to take a chemical test. Officer Hanna told Ayers that they were  
4 going to obtain a blood sample from him. As Ayers sat in his seat, he became  
5 angry. Ayers then stood up and attempted to walk toward Officer Pressley and  
6 Paramedic Weber. Officer Hanna told Ayers to sit down but Ayers would not.  
7 Ayers had to be physically restrained and held in his seat. Ayers was then lead  
8 to the hallway outside the chemical test room. Ayers was placed face first, flat  
9 on the ground. Officer Austin guided Ayers head gently to the floor as Officer  
10 Pressley and Officer Hanna guided the rest of Ayers body on the ground. As  
11 Paramedic Weber was about to obtain a blood draw from Ayers, Ayers began  
12 to struggle. Officer Pressley pinned Ayers down to the floor as Ayers's head  
13 thrashed from side to side. Officer Hanna was positioned to the right of Ayers,  
14 towards his mid-section, and held his arms. Soon thereafter, Paramedic Weber  
15 drew a blood sample from Ayers's left arm. Ayers was assisted off the ground  
16 and the officers noticed that Ayers's mouth was bleeding.

- 17 j. Ayers was then taken to Woodland Memorial Hospital for a medical clearance.  
18 After arriving at the hospital, Ayers spoke very loud about the injustices he had  
19 suffered. Several nurses attempted to take his blood pressure but Ayers would  
20 not allow them to touch him. Ayers stated he was being cooperative with them  
21 and did not want to be medically cleared. Ayers was told repeatedly to calm  
22 down, stay still, and lower his voice. Ayers would not listen and continued to  
23 speak loudly about his problems. Dr. Miller spoke to Ayers and Ayers would  
24 not answer his questions. Ayers stated he wanted to talk to him about an  
25 unknown topic. Dr. Miller was finally able to medically clear Ayers. Dr. Miller  
26 stated to Officer Hanna that he would complete the paperwork for the medical  
27 clearance and as he did so, Ayers began to shout about his situation. Ayers was  
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1 then lead out of the hospital. As Officer Hanna was leading Ayers out of the  
2 hospital, Ayers began to tell Officer Hanna that his ribs hurt and that he wanted  
3 the doctor to look at them. Officer Hanna told Ayers that he had already been  
4 checked out by Dr. Miller and he could see the nurse at the jail. Ayers  
5 repeatedly told Officer Hanna that his ribs hurt and he could not breathe.  
6 Officer Hanna told Ayers he appeared to be fine and it looked like he was  
7 stalling as he did before. Ayers then stopped walking and had to be pushed out  
8 of the hospital. Ayers was subsequently transported to the Yolo County Jail.  
9 The nurse examined Ayers and found no broken bones, no deformity or  
10 bruising of the ribs, and found Ayers's breathing to be normal.

11 54. During the evidentiary hearing, Ayers testified that he does not dispute anything in the  
12 2013 DUI Arrest/Investigation report.

13 55. In a written statement to the Bureau, Ayers states that he "should not have driven, I  
14 should have grabbed a cab. I thought I was fine."

15 56. Driving under the influence of alcohol is a very serious crime that places the general  
16 public at a substantial risk of great bodily harm or death. The evidence shows that Ayers was so  
17 intoxicated that he either ignored or could not immediately comprehend law enforcement's  
18 direction that he pull his vehicle over to the side of the road, prompting the officer in question to  
19 initially observe that Ayers was failing to yield. The fact that Ayers drove in this condition in the  
20 first place, and his inability to initially comply with the officer's order, calls Ayers's judgment  
21 into question. During the evidentiary hearing, Ayers admitted that his excessive drinking has  
22 endangered people.

23 57. Ayers's honesty and judgement is further called into question because he blatantly lied  
24 to the officer about whether he had been drinking. Also, during this incident, Ayers was again  
25 demonstrably uncooperative with law enforcement in an apparent effort to conceal his blood  
26 alcohol level, using almost childlike tactics to refuse to cooperate with officers as they  
27 endeavored to obtain a breath or blood sample from Ayers.  
28

1           58. For the 2011 DUI, Ayers was sentenced to 6 days in jail, which he served in a house  
2 arrest program, and 36 months of summary probation. For the 2013 DUI, Ayers was sentenced to  
3 15 days in jail and 48 months of summary probation. Ayers was ordered to pay a fine and  
4 restitution. Ayers was also required to undergo an 18 month Alcohol Education Counseling  
5 (AEC) program and install an ignition interlock device in his motor vehicle for two years. For the  
6 2011 DUI, another term of probation required Ayers not to consume alcoholic beverages until  
7 October 15, 2013 and then only in moderation. For the 2013 DUI, another term of probation  
8 required that Ayers not possess or consume alcohol nor be in or about a place where alcohol is the  
9 main item of sale during the 48 months of probation. Ayers paid his fine and restitution in full.  
10 Ayers completed his 18 month AEC program and installed the ignition interlock device in his  
11 vehicle.

12           ***D. Fighting/Challenging Another to a Fight***

13           59. On or about June 28, 2017, while Ayers's Application was under review by state  
14 regulators, Ayers was convicted of violating Penal Code section 415(1), fighting/challenging  
15 another to a fight in public, a misdemeanor, in the case of *People v. Steven Carl Ayers* (Super. Ct.  
16 Yolo, 2017, CRM 17-2738). This conviction arises out of an arrest for domestic violence on May  
17 26, 2017. This incident will be known as the "Domestic Dispute."

18           60. The factual circumstances surrounding the Domestic Dispute are as follows:

- 19           a. Steven Ayers's wife, Penny Ayers (Penny), called 911 on May 26, 2017 at  
20 approximately 2:30 p.m.
- 21           b. On the 911 call, Penny states that Ayers is drunk. She states that Ayers pushed  
22 her to the ground, called her names, made her leave the house, made her finger  
23 bleed, and pushed her in the face. In the background of the 911 call, Ayers is  
24 repeatedly yelling "stop hitting me, Penny," "you're hitting me, Penny," and  
25 "stop scratching me, Penny." Ayers was located in a different room from  
26 Penny while yelling. Penny states that Ayers was drunk last night, that he has a  
27 drinking problem, and that he calls her filthy names when he is drunk. She  
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1 states that while she is in the front room by the front door, Ayers is in the  
2 living room in the back of the house placing scratches on his arms. Penny  
3 states that she told Ayers that she was going to call the police and Ayers told  
4 her to go ahead. Penny states that Ayers pushed her to the ground, held her  
5 down, and would not let her go. Penny states that Ayers calls her filthy names.  
6 Penny states that she ran upstairs to go into a bathroom and that Ayers  
7 followed her and prevented her from locking it. The door almost broke. She  
8 states that Ayers is drunk and out of control. She states that Ayers has done  
9 “this” many times but that he has not pushed her around in years and that this  
10 is the first time she has called the police.

11 c. On the police investigation report, Officer Penrose wrote that he was  
12 dispatched with other officers to a domestic violence call at Ayers’s residence.  
13 He wrote that Penny reported that her drunken husband (Ayers) had attacked  
14 her. Ayers was aware that Penny had called the police. During the 911 call,  
15 dispatch could hear a male subject (Ayers) yelling in the background. Penny  
16 told dispatch that Ayers was currently placing scratch marks on his own arms  
17 and was yelling for her to stop injuring him. When the officers arrived, Penny  
18 was outside of the house and waving them down. Penny stated that she came  
19 home to find Ayers drunk. Penny stated that Ayers grabbed her arms, pushed  
20 her down, called her names, and caused a scratch on her finger. Penny  
21 explained that she tried to lock herself inside a bathroom but Ayers was able to  
22 prevent her from doing so. Penny showed the police the bleeding wound on her  
23 right index finger. Officer Penrose also observed a scratch on her left forearm  
24 near the inside of the elbow.

25 d. After Ayers was arrested and placed into the police vehicle, Officer Penrose  
26 spoke with Penny again in more detail. During this conversation, Penny stated  
27 that she came home shortly after 2:00 p.m. and found Ayers asleep on the  
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1 couch in the living room with the television volume blaring. Penny walked up  
2 and found a wine glass on a small table next to him. She realized Ayers had  
3 been drinking wine and presumed that he was drunk. Penny became upset and  
4 she slammed down her carry bag. This made noise and caused some of the  
5 items from the table to fall on Ayers, which woke him up. When Penny moved  
6 away, Ayers got up and tried to give her a hug (Penny explained that whenever  
7 Ayers was drunk, he would try to give her a hug, thinking it would make  
8 things better). Penny tried to move away to avoid Ayers's touch and Ayers  
9 grabbed her by the arms. Penny tried to free herself but Ayers would not let her  
10 go. Penny struggled and eventually dug her fingernails into his forearm to  
11 make him let go. After Penny was able to free herself, she ran to the hallway  
12 bathroom upstairs. When she got inside the bathroom, she immediately closed  
13 the door. She was unable to lock it. Ayers followed her and was turning the  
14 handle from the exterior side, preventing the locking of the door. Ayers was  
15 trying to come inside while Penny applied force on the door to keep it closed.  
16 Penny explained that the opposing forces against the door were causing the  
17 door to bend. Penny told Ayers that she was calling the police and he told her  
18 to go ahead. At some point, Penny allowed the door to open and Ayers fell on  
19 the ground. Penny tried to step over Ayers to get away but he grabbed her and  
20 pulled her down. Penny began screaming "at the top of her lungs" but no one  
21 else was around. Penny stated that Ayers was not hurting her but he was just  
22 holding her down on top of him. He repeatedly called her a "stupid fucking  
23 psycho-bitch" about 20 times. Penny explained that this was a specific filthy  
24 name that he liked to call her when he was drunk. After a struggle, Penny was  
25 able to free herself. She went downstairs and called the police. She told Ayers  
26 that she was calling the police and he told her to go ahead. While Penny was  
27 on the phone with the police, Ayers stood across the room and was saying  
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1 repeatedly, and loudly enough for the police to hear, “Penny, you are hurting  
2 me, stop hurting me.” According to the 911 call, Ayers was actually yelling  
3 “stop hitting me, Penny,” “you’re hitting me, Penny,” and “stop scratching me,  
4 Penny.” Penny felt Ayers was doing this so that he could have her arrested.  
5 Penny exited the house while Ayers held the door open, telling her to get out.

- 6 e. On July 3, 2017, Penny submitted an email to the Bureau regarding the  
7 Domestic Dispute. In the email, Penny states that she should never have called  
8 the police on Ayers. She states that she must have been out of her mind and did  
9 not know what she was doing. She wishes that she could take it all back. She  
10 states that she does not even know what to say except that she was wrong and  
11 Ayers paid the price for it.
- 12 f. On September 21, 2017, Penny submitted a second email to the Bureau  
13 regarding the Domestic Dispute. In the email, Penny states that she has these  
14 moments when she is out of control and that Ayers tries to calm her down by  
15 putting his arms around her, hugging and holding her, which is what he did  
16 during the Domestic Dispute. She was having one of her days, came home, and  
17 woke him from a sound sleep. When Ayers put his arms around her, she fought  
18 him. Penny states that she does not know what she was thinking. When the  
19 police came, she had a very tiny scratch on her index finger, but was not even  
20 really sure how she received the scratch. Penny states that to put an end to this,  
21 and to spare her, Ayers accepted responsibility for the Domestic Dispute.  
22 Penny states that if it were not for her actions, none of this would have  
23 happened. Penny truly and deeply regrets what she did that day.
- 24 g. Penny testified during the evidentiary hearing that she called the police  
25 regarding the Domestic Dispute because she “just wasn’t thinking clearly.”  
26 Penny states that she was upset and emotional and snapped during the  
27 Domestic Dispute. She does not recall if any objects hit Ayers, but she recalls  
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1 throwing her big work bag on the table, which made a bang. This startled  
2 Ayers because he had been sleeping. She was not scared of Ayers but went  
3 upstairs because she wanted to be left alone. Ayers followed her. She was  
4 upset because her mother, and Ayers's mother, were coming over and this was  
5 not the way she wanted the weekend to start. She described herself as a very  
6 emotional and over-reactive person who yells and screams. When this happens,  
7 Ayers comes over and holds her, which works sometimes. However, it did not  
8 work this time. Penny testified that she said a bunch of things to the dispatch  
9 and police officers that were untrue. She also states that she has a problem  
10 choosing the right words. She states that it was not true that Ayers was beating  
11 her up and attacked her. She states that it was the wrong choice of words that  
12 Ayers pushed her to the ground and held her and would not let her go. After  
13 Ayers was banging on the bathroom door, she opened the door. Ayers was  
14 lying on the ground. She tripped and Ayers pulled her down. After she  
15 screamed, he let her go. She states that the scratch on her finger was nobody's  
16 fault and that nobody caused it. Later she testified that Ayers never intended to  
17 scratch her. She states that she does not know why she said that it has been  
18 years since he has pushed her around. She states that they both call each other  
19 filthy names. She states that she is not afraid of Ayers and that he has never  
20 injured her, hit her, or pushed her around. She has pushed him in the chest and  
21 hit him in the arm, but nothing that would injure him. She does not beat him  
22 and does not hit him all the time. She states that they both said things that were  
23 not true. She did not want a protective order or notification when Ayers was  
24 released from jail. She never felt in danger and stated that there was no  
25 violence, threats or pressure, and that Ayers was wrongly charged.

- 26 h. On October 4, 2017, Ayers submitted a letter to the Bureau regarding the  
27 Domestic Dispute. Ayers prefaces the letter with a disclaimer that his  
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1 statement is subject to correction and adjustment “as may be required as  
2 necessary as determined by my legal counsel.” Ayers states that he had a long  
3 week of many hours, had started very early that day, and decided to go home  
4 and unwind by himself. He opened up a bottle of wine, drank some, and  
5 watched some television. He went to sleep on the couch. Ayers was woken up  
6 by something and assumed that Penny had thrown something at him while he  
7 was asleep. Penny was yelling and angry, and somewhat out of control.  
8 Whenever Penny is like this, Ayers tries to calm her down by giving her a hug.  
9 This time Penny would have no part of it and she went around the house  
10 screaming. She went upstairs and he followed her continuing to try to calm her  
11 down. She tried to lock herself in the spare bedroom, and out of concern for  
12 her safety, Ayers was not going to leave her presence. Ayers states that all he  
13 was trying to do was hold Penny for her to calm down. The police came and  
14 arrested him. Ayers states that as his attorney put it, “but for [Ayers’s] spouse  
15 waking you up, this would have had a very different outcome.” Ayers states  
16 that unfortunately for him, Penny was not having a good day and brought it  
17 home with her. A month later, Penny had spoken with the county attorney and  
18 asked that the charges be dropped. Penny discussed that the report was  
19 inaccurate and that she could not say when or how the scratch on her finger  
20 occurred, as it was just an everyday scratch. Ayers wanted the matter to go to  
21 court, but decided it was better to put the Domestic Dispute behind him. Ayers  
22 wrote that “given all things, including that I want to protect my family, I  
23 decided to accept the responsibility and put closure to this.”

- 24 i. During the evidentiary hearing, Ayers testified that the Domestic Dispute was  
25 fuzzy because he had been working since 6:00 a.m. the previous day, had been  
26 awake for approximately 30 hours, had consumed opioid narcotics to address  
27 his back pain the day before and in the morning when he woke up in his office.  
28

1 Ayers testified that he came home, consumed some wine (either 2-3 glasses or  
2 the whole bottle), and fell asleep. Ayers testified that he was hit in the head  
3 with a wine glass and woke up startled. Penny was yelling. Ayers testified that  
4 although Penny has hit him in the past, on occasion over the years, he did not  
5 think Penny hit him during the Domestic Dispute. Ayers testified that he has  
6 never hit Penny. Ayers remembered making comments about “stop hitting  
7 me,” but stated that was “just in general over the years.” Ayers testified that he  
8 has never thrown anything at her, but Penny has gotten angry and thrown  
9 things at him and onto the floor. Ayers acknowledged that he was some  
10 distance away from Penny during the 911 call. Ayers testified that she  
11 scratched him or put her fingernails in him. Ayers testified that he is not sure  
12 why he said some of the things he said. He testified that he did not  
13 “specifically recall” scratching himself, but that he could have. He recalled  
14 opening the front door for Penny to leave, told her get out, shut the door, went  
15 upstairs, lay down, and was in the process of going to sleep. Ayers testified  
16 that Penny was not in the right frame of mind. He stated that Penny gets upset  
17 at times and that he tries to calm her down by hugging her. He testified that  
18 sometimes the hugging works, but other times he leaves the house and goes to  
19 a hotel or his office. Ayers did not believe that Penny would call the police and  
20 was shocked that she did so. Ayers was surprised to see the police because he  
21 did not think he did anything wrong.

- 22 j. Officer Penrose also testified during the evidentiary hearing. Officer Penrose  
23 has been a police officer with the Davis Police Department for 22 years.  
24 Officer Penrose testified that dispatch stated that Ayers was placing scratch  
25 marks on his own arms. Dispatch stated that Penny was outside of the house  
26 and that Penny stated Ayers scratched her, grabbed her, pushed her down, and  
27 called her names. The police received permission from Penny to enter the  
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1 house. Once inside, they requested that Ayers talk to them. Ayers was upstairs.  
2 After Ayers came downstairs, Ayers told Officer Penrose to look at his arms  
3 and stated that Penny hit him, hit him often, and that Penny should be arrested.  
4 Officer Penrose testified that Ayers was uncooperative during their entire  
5 contact. Officer Penrose determined Ayers to be the aggressor.

6 k. On the body-camera footage from Officer Rod Rifredi, Penny stated that Ayers  
7 was drunk. Ayers would not let her go. Ayers followed her as she ran to the  
8 bathroom and he tried to open the bathroom door. The bathroom door was  
9 about to break. Penny then tried to run past Ayers, but he grabbed her, pushed  
10 her down, and would not let her go. Penny also stated that Ayers caused the  
11 scratch on her finger. Officer Rifredi checked underneath Penny's fingernails  
12 and stated that there was no buildup of skin or scratching that would indicate  
13 that Penny caused any scratches on Ayers.

14 l. On the body-camera footage from Officers Penrose and Rifredi, after speaking  
15 with Penny, the police knocked on the door to the house several times but  
16 Ayers did not answer. The police received permission from Penny to use a  
17 spare key to enter the house. After entering the house, the police called to  
18 Ayers, who was upstairs. Ayers stated that he was upstairs sleeping, which is  
19 why he did not answer the door. Ayers asked why the police were in his house  
20 and who let them in. The police responded that Penny had called the police and  
21 let them inside the house. Ayers told the police to bring Penny into the house.  
22 The police refused. The police stated that they were there to investigate a  
23 reported domestic violence incident. Ayers stated that there was no domestic  
24 violence on his part. He told the police repeatedly to look at his arms and see  
25 the scratch marks. Ayers said that Penny has hit him, scratched him, and beat  
26 him. Ayers pointed to his arms and said that this is what Penny had done  
27 earlier. He repeated several times that the police should look at his arms and  
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1                   that Penny has scratched and beat him. Ayers said that he had been upstairs  
2                   sleeping, but would not answer any questions regarding how long he had been  
3                   sleeping. Ayers told the police that they need to arrest Penny and that she does  
4                   this all the time.

5                   61. Both Ayers and Penny testified that they said some things to the police that were false.  
6                   Both admit they may have embellished some of the circumstances surrounding the Domestic  
7                   Dispute. For Penny's part, the information she gave to the 911 dispatcher and the officers who  
8                   arrived to the scene is substantially different than the information she offered to the "county  
9                   attorney," the Bureau, and the Commission in the form of her direct testimony.

10                  62. However, there is no dispute that Ayers had been consuming alcohol and appeared  
11                  intoxicated during the Domestic Dispute. There is no dispute that Ayers can be heard in the  
12                  background of the 911 tape repeatedly, and loudly, exhorting his wife to stop hitting and  
13                  scratching him, even though she is clearly not near him. There is no dispute that Penny told the  
14                  911 dispatcher that Ayers scratched his own arms. There is no dispute that upon being confronted  
15                  by officers, Ayers showed the officers his arms, and dishonestly told them Penny hit him often  
16                  and exhorted them to arrest Penny for domestic violence.

17                  63. Penny attempted to take full responsibility for the Domestic Dispute in her emails to  
18                  the Bureau and while testifying during the evidentiary hearing. However, Penny is not responsible  
19                  for Ayers's conduct or poor judgement. Penny never compelled or coerced Ayers into following  
20                  her, calling her filthy names, placing scratch marks on his own arms, or lying to and being  
21                  uncooperative with law enforcement.

22                  64. Ayers wrote a letter to the Bureau stating that he accepted responsibility for the  
23                  Domestic Dispute. While Ayers was convicted of fighting/challenging another to a fight in public  
24                  as a result of the Domestic Dispute, Ayers never took any moral responsibility or expressed any  
25                  remorse for his actions in the Domestic Dispute. In fact, in his letter, Ayers attributes the  
26                  responsibility for the Domestic Dispute to Penny because "but for [Penny] waking [him] up, this  
27                  would have had a very different outcome." Ayers also views following Penny upstairs as  
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1 something positive, given that he states he only did so “out of concern for her safety.” However,  
2 Ayers should have extricated himself from the situation as he testified he has done in the past to  
3 avoid exacerbating the situation.

4 65. Ayers was sentenced to 3 years of probation and ordered to pay a fine, attend a 52  
5 week anger management counseling program, and perform 8 hours of community service. Ayers  
6 completed his community service, fulfilled the attendance requirements of the 52 week anger  
7 management counseling program, and paid all fees. Ayers did not disclose this conviction on his  
8 Application because it occurred after his Application had been submitted to the Bureau. Penny  
9 informed the Bureau of the conviction on or about July 3, 2017.

10 66. As a result of the terms of probation, Ayers attended anger management classes with  
11 class facilitator Roman C.C. Montague (Montague). On November 1, 2017, Montague wrote a  
12 letter regarding Ayers’s participation in the anger management classes. Montague states that he is  
13 greatly impressed with Ayers’s willingness to consistently attend and participate in class.  
14 Montague states that Ayers has made great strides in being proactive to remedy and improve his  
15 current situation, and has been nothing but respectful, honest, and open during their interactions.  
16 Montague believes that Ayers is a genuine individual in an unfortunate circumstance. Montague  
17 has nothing but the highest regard for Ayers.

18 67. Montague significantly minimizes the Domestic Dispute and Ayers’s role in it through  
19 his characterization of Ayers as a genuine individual “in an unfortunate circumstance.” During  
20 the Domestic Dispute, Ayers did not extricate himself from the situation as he testified he has in  
21 the past when Penny is upset. Instead, Ayers exacerbated the situation by following Penny  
22 upstairs and refusing to let her lock the bathroom door and by calling her filthy names. Ayers also  
23 placed scratch marks on his arms and lied to law enforcement by stating that they were caused by  
24 Penny. Ayers’s motivation was to have Penny arrested for domestic violence. Based on  
25 Montague’s comment that Ayers simply found himself “in an unfortunate circumstances,” it is  
26 unclear whether Ayers fully disclosed his actions during the Domestic Dispute to Montague.

27 68. Montague’s letter is dated November 1, 2017, which is just 13 days after Ayers was  
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1 arrested for public intoxication for his own protection in the Taxi Incident discussed in a later  
2 section. The fact that Ayers had an alcohol-related incident while in counseling, and just thirteen  
3 days after Montague wrote a letter in support of Ayers, discounts the progress that Montague says  
4 Ayers has made in his treatment.

5 69. Roy Larry (Larry) is the Senior Pastor at Potter's House, Church of God and Christ.  
6 Larry was another instructor in Ayers's court-ordered anger management class. During the  
7 evidentiary hearing, Larry testified that Ayers attended 62-64 sessions even though only 52  
8 sessions were required. Larry testified that Ayers has accepted responsibility and that he has seen  
9 change in the year that he has known Ayers. Larry testified that Ayers counseled an individual  
10 who was about to lose everything and gave him money to help him get back on his feet. Ayers  
11 also volunteered to pay for the eye surgery for another individual. Larry testified that Ayers is  
12 very honest, a man of his word, a friend, and a tremendous gentlemen with tremendous character.

13 **X. Ayers's Recent Arrest History**

14 **A. *Dos Coyotes Incident***

15 70. On or about April 14, 2017, while Ayers's Application was under review by state  
16 regulators, Officer Gillette of the Davis Police Department was working uniformed patrol in a  
17 marked patrol unit. At approximately 4:33 p.m., Officer Gillette was dispatched to Dos Coyotes  
18 for a report of an intoxicated male passed out asleep inside the restaurant (the Dos Coyotes  
19 Incident). Upon entering Dos Coyotes, Officer Gillette spoke with an employee who stated that  
20 the male subject (Ayers) had come into the business earlier and appeared intoxicated. The  
21 employee stated that Ayers was still passed out in the back corner of the restaurant. Officer  
22 Gillette walked around the corner and observed Ayers passed out asleep while sitting upright at a  
23 table. Ayers had a glass of red wine on the table and a plate of food that looked as if it had not  
24 been touched. Officer Gillette walked up to Ayers and woke him up by saying his name. Officer  
25 Gillette asked Ayers how much alcohol he consumed that day. Ayers verbally responded, but  
26 Officer Gillette was not able to understand anything Ayers said. Officer Gillette could smell a  
27 strong odor of an alcoholic beverage emitting from Ayers. Ayers's speech was heavily slurred  
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1 and extremely difficult to understand. Officer Gillette asked Ayers if they could speak outside the  
2 business and Ayers agreed. Prior to getting up, Ayers appeared very unsteady and at one point  
3 almost knocked over his glass of wine. Officer Gillette and Ayers spoke outside of Dos Coyotes.  
4 Ayers was unsteady on his feet and as soon as they got outside, Ayers immediately had to sit  
5 down on a chair to prevent him from falling down. Officer Gillette asked Ayers what was going  
6 on, and Ayers responded that he was just relaxing. Officer Gillette explained to Ayers that he was  
7 passed out inside of the restaurant, and Ayers again stated that he was just relaxing. Officer  
8 Gillette could still smell a strong odor of an alcoholic beverage emitting from Ayers. Officer  
9 Gillette asked Ayers if he knew where he was and Ayers could not provide an answer. Officer  
10 Gillette asked Ayers where he lived and Ayers could not provide an address. Based on these  
11 observations and his interaction with Ayers, Officer Gillette believed Ayers was intoxicated to the  
12 point that he was unable to care for himself. Officer Gillette arrested Ayers for public intoxication  
13 and transported him to Yolo County Jail.

14 71. During the evidentiary hearing, Ayers testified that although he did not read the police  
15 report, he respects it. He recalls falling asleep at Dos Coyotes. Ayers testified that he was not  
16 drinking heavily, as his routine was to have two glasses of wine with his meal. Ayers's testimony  
17 is belied by his level of intoxication as observed by Officer Gillette.

18 72. Ayers was not convicted of public intoxication arising out of this incident. However,  
19 Ayers admitted during his testimony that he was drinking and consuming opioid narcotics. This  
20 incident occurred while he was on court-ordered 4 year probation for the 2013 DUI and  
21 prohibited from consuming any alcohol under that probation.

### 22 ***B. Taxi Incident***

23 73. On October 19, 2017, while Ayers's Application was under review by state regulators,  
24 Officer Camacho was working on uniformed patrol when he was dispatched to a civil problem.  
25 The reporting party, Paramjit Bajwa (Bajwa), spoke with Officer Camacho on the telephone.  
26 Bajwa stated that he is the driver for a local taxi company and was currently parked in Davis,  
27 California. He had a fare in his vehicle that refused to pay the \$60 cost for a ride from the city of  
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1 Sacramento to the city of Davis. When Ayers was arrested, the police checked Ayers's wallet for  
2 identification. The police discovered that Ayers had \$5,526.58 in cash. Bajwa described his fare  
3 as an unidentified male under the influence of alcohol. Bajwa stated that the fare would only  
4 repeat that "everything is fine" and refused to leave the vehicle. This incident will be known as  
5 the "Taxi Incident."

6 74. Officer Camacho responded to the area to assist with the civil dispute. Officer  
7 Camacho and Officer Squibbs parked nearby and approached Bajwa's vehicle. Bajwa sat in the  
8 driver's seat and essentially told the officers the same story as he had earlier on the phone. Officer  
9 Camacho smelled the strong odor of an alcoholic beverage coming from the interior of the taxi.  
10 Officer Camacho contacted the male passenger (Ayers), who repeated several times that  
11 "everything is fine." Ayers had a fresh minor injury on his right cheek bone as if he had fallen to  
12 the ground in the recent past. Ayers's eyes were red and bloodshot. When Ayers spoke, the odor  
13 of an alcoholic beverage emanated from his breath. Officer Camacho asked Ayers to step out of  
14 the vehicle, which Ayers did. Ayers leaned backward and forward and Officer Camacho believed  
15 that Ayers might not be able to keep his balance. At one point Ayers leaned forward so much that  
16 Officer Camacho feared he would fall on top of him. Officer Camacho placed one of his hands on  
17 Ayers's chest to prevent him from falling. Based on his observation at the scene, Officer  
18 Camacho formed the belief that Ayers was so heavily intoxicated by alcohol in a public place that  
19 he was not able to care for himself. Officer Camacho directed Officer Squibbs to make contact  
20 with someone at Ayers's residence. When Officer Squibbs reported that no one was answering  
21 the door at the residence, Officer Camacho arrested Ayers for public intoxication as a final  
22 option.

23 75. Ayers was transported to the Yolo County Jail and booked for public intoxication to  
24 be released without further incident. Ayers was not convicted of public intoxication arising out of  
25 the Taxi Incident. After Ayers was arrested, the police checked Ayers's wallet for identification.  
26 The police discovered that Ayers had \$5,526.58 in cash.

27 76. During the evidentiary hearing, Ayers testified that he was working long hours and  
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1 was on prescription medication. He fell asleep and got into a disagreement with the taxi driver.

2 77. The Taxi Incident occurred just four months after Ayers was put on probation  
3 following the Domestic Dispute.

4 78. The Dos Coyotes Incident, the Domestic Dispute, and the Taxi Incident are recent  
5 events that demonstrate Ayers's ongoing habit of consuming alcohol to the point of intoxication  
6 and exercising poor judgment. In this incident, Ayers was found to have \$5,526.58 in cash but  
7 refused to pay for the \$60 cab fare. Moreover, this incident happened less than two months before  
8 the January 11, 2018 meeting where Ayers's Application was referred to an evidentiary hearing.

9 **XI. Additional Police Calls**

10 79. The evidence established that there were several additional incidents when police were  
11 dispatched to Ayers's home address.

12 80. On April 26, 2012 the Davis Police were dispatched to Ayers's home. Ayers states  
13 that he had a vague recollection that there were some occasions where the police were called, but  
14 Ayers does not think of these instances as the police "coming to the home." According to the  
15 dispatch log, Ayers exited a taxi cab after paying only a portion of the fare. Ayers's "sober wife  
16 came home and will handle cab fare."

17 81. On September 21, 2012 the Davis Police were dispatched to Ayers's home. Ayers  
18 recalled that he had taken a taxi. He had left his wallet at the office and the taxi driver wanted  
19 collateral, so Ayers gave the taxi driver his ring. The following day, Ayers met up with the taxi  
20 driver to give him the money owed for the fare and the taxi driver returned the ring to Ayers.  
21 According to the dispatch log, Ayers did not have money for the taxi so he provided the taxi  
22 driver with jewelry for collateral. The taxi driver called the police to document the situation.

23 82. On November 7, 2012 the Davis Police were dispatched to Ayers's home. Ayers states  
24 that this incident arose out of an argument with his daughter about her cell phone. Ayers had an  
25 argument with his daughter about her cell phone and took the cell phone away. His daughter  
26 called the police when he would not give the cell phone back to her. According to the dispatch  
27 log, Ayers's daughter stated that Ayers "got in her face" and requested that the police stand by  
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1 while she and Penny got their belongings to stay elsewhere that night.

2 83. On January 18, 2013 the Davis Police were dispatched to Ayers's home. Ayers states  
3 that he often leaves his keys and has to go to the garage or wait on the porch of his house to get  
4 inside. He would knock or yell to get the attention of someone at home. Ayers states that the  
5 narrative from the incident report is confused, does not make sense, and does not refresh his  
6 recollection. According to the dispatch report, Ayers's daughter stated that Ayers was in front of  
7 the house and yelling. Ayers's daughter locked herself inside the house and advised that she  
8 thinks the dispute with Ayers "is going to get physical." Ayers's daughter reported that she was  
9 really upset and scared.

10 84. On December 7, 2013 the Davis Police were dispatched to Ayers's home. Ayers states  
11 that he had a vague recollection that there were some occasions where the police were called, but  
12 Ayers does not think of these instances as the police "coming to the home." According to the  
13 dispatch report, the incident type was "drunk in public." Ayers got into a dispute with a taxi  
14 driver and refused to exit the vehicle. This incident occurred within the court-ordered 4 year  
15 probationary period arising out of Ayers's 2013 DUI conviction, which required him not to  
16 consume nor be in or about a place where alcohol is the main item of sale.

17 85. On July 31, 2014 the Davis Police were dispatched to Ayers's home. Ayers states that  
18 he recalls an occasion where he fell asleep while waiting for his wife to get home, and then was  
19 roused by a nurse. He did not recall the police being present. According to the dispatch report,  
20 this incident involved a nurse, who was a neighbor of Ayers, rousing Ayers from sleeping on the  
21 front patio of Ayers's residence. The nurse believed that Ayers was under the influence of an  
22 unknown substance. This incident also occurred within the court-ordered 4 year probationary  
23 period arising out of Ayers's 2013 DUI conviction, which required him not to consume nor be in  
24 or about a place where alcohol is the main item of sale.

25 86. These incidents demonstrate that Ayers has had several disputes with family and  
26 members of the public that necessitated police intervention. Ayers was also uncooperative during  
27 two of the incidents: when he failed to pay the entire fare of a taxi ride and when he refused to get  
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1 out of a taxi.

2 **XII. Ayers's History of Alcohol Consumption**

3 87. During the evidentiary hearing, Ayers testified regarding his history of alcohol  
4 consumption. Ayers testified he has been consuming alcohol for 40 years, with his drinking  
5 centered on marketing and meeting clients. In the construction and business world, Ayers and his  
6 potential clients and partners "inevitably drink adult beverages," including during lunchtime. He  
7 describes the consumption of alcohol as "part of the marketing that I do with my clients or future  
8 clients." Ayers testified that consuming alcohol has been part of what has made him successful.  
9 Ayers has secured hundreds of millions dollars' worth of work through "sit downs and drinks."  
10 Ayers testified that drinking "is part and parcel of the world I'm in." Ayers testified that the  
11 entertainment portion of going out and drinking has served him very well from the standpoint of  
12 meeting clients and establishing relationships. Ayers's marketing for business clients may take  
13 place in the Elks Tower Casino and Lounge. This marketing may involve his other businesses or  
14 the business of controlled gambling. As a result, Ayers's consumption of alcohol for business and  
15 marketing purposes may permeate his cardroom and the business of controlled gambling.

16 88. Penny testified that Ayers only started drinking excessively in 2010, when business for  
17 Armour Steel was slow and Ayers had to lay off employees. She states that Ayers was sincere  
18 about seeking help for his drinking after 2010. Ayers was not able to completely stop drinking but  
19 it went "way, way down." Penny's testimony that Ayers's issues with alcohol started in 2010 is  
20 supported by the lack of any known alcohol-related incidents before 2011. However, Ayers had a  
21 number of incidents with alcohol starting in 2011, and Ayers did not seek help for his drinking  
22 until after the second of his DUI arrests, which occurred in 2013. Based upon the number of  
23 incidents that Ayers has had with alcohol in the years following 2010, Penny's testimony that  
24 Ayers's drinking went "way, way down" is not supported.

25 89. Ayers testified that there are contributing factors that led to the various alcohol-related  
26 incidents. These factors include extreme stress, lack of sleep, consuming too much alcohol, and  
27 mixing opioid narcotics and alcohol. There are also triggers for his consumption of alcohol,  
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1 including extreme stress over extended periods of time, lack of sleep, family life, and business  
2 problems.

3 90. While Ayers has sought treatment for alcohol use, which is discussed in more detail  
4 below, many of these contributing factors and triggers are still present in his life today:

- 5 a. Regarding stress and business problems, Ayers testified that he is always under  
6 stress. Ayers repeated that he is under stress “all the time.” Ayers works  
7 extreme hours. He testified that he gets up for work before the sun gets up and  
8 works well after sun goes down, and has done so seven days a week for almost  
9 all of his life. He testified that he works insane hours. Penny testified that  
10 Ayers is a workaholic.
- 11 b. Regarding lack of sleep, Ayers testified that he threw away his sleeping pills  
12 years ago. Ayers testified that now he does not sleep at all. Ayers is also in  
13 constant pain as a result of back surgery and having worked in the construction  
14 and steel industries since he was 12 years old. The pain affects his ability to get  
15 decent sleep.
- 16 c. Regarding excessive drinking, Ayers testified that he has only consumed  
17 alcohol in moderation after the two DUIs. While Ayers has not had any DUI  
18 convictions or arrests since the 2013 DUI, Ayers’s testimony is belied by his  
19 extreme levels of intoxication during the Dos Coyotes Incident, the Domestic  
20 Dispute, and the Taxi Incident, all of which took place in 2017. Some of the  
21 police calls to his residence appear to have been alcohol related. Penny  
22 testified that while it is not common, it happens that she comes home to find  
23 Ayers drunk, which means that there are additional times where Ayers has  
24 consumed alcohol to the point of intoxication. Penny has stated that Ayers has  
25 a problem with alcohol.
- 26 d. Regarding the consumption of opioid narcotics, Ayers testified that he had  
27 been taking opioid narcotics to deal with pain following back surgery. Ayers  
28



1 has endured the pain for many years. Ayers did not understand initially that  
2 prescription opioid narcotics did not mix well with alcohol, but testified that  
3 shortly thereafter he noticed that the combination started affecting him.  
4 However, Ayers has been taking opioid narcotics and mixing them with  
5 alcohol for years. In fact, Ayers testified that the combination of opioid  
6 narcotics and alcohol was the main reason for some of the alcohol-related  
7 incidents, including the Taxi Incident, which took place in 2017. Either Ayers  
8 was mistaken during his testimony and did not notice that mixing opioid  
9 narcotics and alcohol caused problems, or Ayers noticed that mixing opioid  
10 narcotics and alcohol caused problems, but he continued to mix them anyway.

- 11 i. Ayers also testified that he told Penny not to take two narcotics at once,  
12 which he says Penny does to go to sleep, because the pills can hurt her.  
13 However, Penny testified that she took pain pills for only four days  
14 after she had injured her hand in June 2018. She has not taken the pills  
15 since. Ayers's testimony that Penny takes pain pills to go to sleep is  
16 contradicted by her testimony that she does not. It appears that Ayers's  
17 testimony is meant to demonstrate his understanding of the harmful  
18 effects of taking pain pills. However, if Ayers truly understood the  
19 harmful effects of taking pain pills, presumably he would not have  
20 taken his own opioid narcotics and continued to mix them with alcohol.
- 21 ii. Ayers testified he stopped taking the opioid narcotics. He gave his pills  
22 to his project manager, Steven Pagano, and told him to flush them  
23 down the toilet. Ayers only stopped taking the pills on Saturday,  
24 October 20, 2018, one day after the commencement of this evidentiary  
25 hearing. Ayers testified that he now refuses to take the opioid narcotics  
26 and will simply deal with the pain. It is a concern that Ayers requested  
27 Steven Pagano's assistance with throwing away the pills rather than  
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1 doing it himself, because it suggests that Ayers may not be able to stop  
2 taking opioid narcotics without others' assistance. It is of greater  
3 concern that Ayers would choose to be in pain and avoid taking  
4 prescription opioid narcotics rather than abstain, or at least significantly  
5 reduce, his consumption of alcohol.

- 6 e. Regarding family issues, Ayers acknowledged that there was an incident where  
7 his daughter called the police because he had taken away her cell phone. There  
8 was a second incident with his daughter where the police were called to his  
9 home. The Domestic Dispute was also family-related. During the Domestic  
10 Dispute, there was a mutual combat situation between Ayers and Penny that  
11 resulted in minor scratches to Penny. In her emails to the Bureau and while  
12 testifying during the evidentiary hearing, Penny took the blame and  
13 responsibility for the whole incident. She stated that she has these moments  
14 where she is out of control. She describes herself as a very emotional and over-  
15 reactive person who yells and screams. She testified that they call each other  
16 filthy names. Penny acknowledged that they have a history of physical  
17 altercations, but that while she does not beat him, she has pushed him in the  
18 chest and hit him on the arm. Penny also acknowledged that their relationship  
19 can be frustrating at times; that Ayers is a workaholic; and that Ayers has a  
20 problem with alcohol. This makes Ayers unavailable to spend quality time  
21 with Penny. Ayers stated that Penny was out of control during the Domestic  
22 Dispute. He told the police that she hits and beats him all the time. During the  
23 evidentiary hearing, Ayers testified that Penny has hit him in the past and has  
24 thrown things at him and onto the floor. Penny acknowledged that she throws  
25 things when she gets angry at Ayers for coming home late. Penny throws  
26 dishes or things from the bathroom onto the floor. She is frustrated that Ayers  
27 was not successful in stopping the consumption of alcohol. In light of these  
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1 family issues, Ayers and Penny have attended couples counseling and also  
2 sought counseling as individuals. Penny testified that they went to marriage  
3 counseling in 2016. However, the marriage counseling did not prevent the  
4 mutual combat situation of the Domestic Dispute from occurring in May 2017.

5 91. Ayers testified that he also likes to consume alcohol to relax when he is done working.  
6 Even these situations have resulted in various alcohol-related incidents, including two arrests for  
7 public intoxication in 2017 and the Domestic Dispute.

8 92. To address the concerns of Ayers's habit of consuming alcohol to the point of extreme  
9 intoxication, Ayers testified that he will not drink to excess and that he is off his opioid narcotics.  
10 Ayers testified that he has only drank in moderation since his second DUI in 2013, which is not  
11 true. The number of alcohol-related incidents in Ayers's recent past suggests an inability to  
12 consistently moderate his alcohol consumption. Additionally, Ayers testified that he only stopped  
13 taking his opioid narcotics on October 20, 2018, the day after this hearing started.

14 93. Ayers also testified that he has sought various forms of treatment for alcohol use over  
15 the past few years. Ayers's treatment for alcohol started in 2013 as a court-ordered requirement  
16 that he undergo an 18 month AEC program. Ayers's treatment for alcohol use is discussed in  
17 further detail below. However, Ayers's treatment for alcohol use has not prevented the recurrence  
18 of alcohol-related incidents, including the two arrests for public intoxication and the Domestic  
19 Dispute, all of which took place in 2017 and while his Application was under review by state  
20 regulators.

21 94. Ayers further testified that he voluntarily put an Ignition Interlock Device in his motor  
22 vehicle, but he was actually ordered to do so for two years following his 2011 and 2013 DUI  
23 convictions.

24 95. Ayers testified that if he has "a single alcoholic beverage," he will take a taxi. There  
25 was no evidence presented that Ayers has had a DUI arrest or conviction after 2013, which  
26 supports Ayers's testimony that he will take a taxi if he consumes any alcohol. However, there  
27 have been several altercations while Ayers was taking a taxi, including most recently, the Taxi  
28

1 Incident in October 2017. Ayers has not succeeded in avoiding alcohol-related incidents by taking  
2 taxis instead of driving while under the influence of alcohol.

3 96. Ayers also testified that he has accepted responsibility for all of his prior actions.  
4 Despite his recent and ongoing treatments for alcohol consumption, there is significant evidence  
5 that Ayers has not fully accepted responsibility for his prior alcohol-related incidents, nor has  
6 Ayers addressed the ongoing concern of his poor judgment and uncooperative and dishonest  
7 behavior toward law enforcement while intoxicated.

8 a. Regarding the 2011 DUI, Ayers submitted a written statement that he believed  
9 his borderline diabetes had something to do with the incident. If Ayers has  
10 diabetes, then he presumably knew about his diabetes at the time of the 2011  
11 DUI because he told Officer McChesney that he was diabetic. Yet, Ayers  
12 would not allow medical personnel to check his blood sugar. Ayers's refusal to  
13 permit a blood draw is irreconcilable with a legitimate belief that his blood  
14 sugar levels were a factor in his behavior. Additionally, Ayers produced no  
15 medical evidence that he has diabetes or is borderline diabetic, or its potential  
16 explanation for his behavior. If Ayers was truthful about having borderline  
17 diabetes, he should have known that the consumption of alcohol could affect  
18 his diabetes. Based on Ayers's level of intoxication as observed by Officer  
19 McChesney, and Ayers's subsequent conviction, it appears that Ayers's  
20 alleged borderline diabetes was not a factor in the 2011 DUI.

21 b. Ayers testified that he has only consumed alcohol in moderation after the two  
22 DUIs, which took place in 2011 and 2013. However, Ayers's testimony is  
23 contradicted by the several alcohol-related incidents that have taken place  
24 since the DUIs, including the Dos Coyotes Incident, the Taxi Incident, and the  
25 Domestic Dispute, all of which took place in 2017 and while his Application  
26 was under review by state regulators.

27 c. Ayers testified that he is extremely cooperative, which he admitted is  
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1 contradicted by the evidence of his uncooperative behavior toward law  
2 enforcement and medical personnel following the 2011 DUI, the 2013 DUI,  
3 and the Domestic Dispute. Ayers testified that he was not cooperative because  
4 he wanted his attorney and knew his rights. However, Ayers's explanation  
5 does not justify his actions of attempting to obstruct the taking of involuntary  
6 blood draws as a result of implied consent, lying to law enforcement about  
7 whether he had consumed alcohol, and lying to law enforcement about the  
8 cause of the scratches on his arms for the purpose of having his wife arrested  
9 for domestic violence.

10 d. Regarding the Domestic Dispute, Ayers submitted a letter to the Bureau in  
11 which he states that he decided to accept responsibility for the Domestic  
12 Dispute to protect his family. Throughout the letter, Ayers never accepts any  
13 responsibility for exacerbating the situation by following Penny upstairs<sup>3</sup>,  
14 refusing to let her lock the bathroom door, pulling and holding her down, and  
15 by calling her filthy names. In fact, Ayers proudly states that he followed  
16 Penny upstairs and would not allow Penny to lock herself in the bathroom "out  
17 of concern for her safety." Ayers never mentions, let alone takes any  
18 responsibility for lying to and being uncooperative with law enforcement, or  
19 placing scratch marks on his own arms in order to have Penny arrested for  
20 domestic violence.

21 e. Ayers testified that the combination of opioid narcotics and alcohol was the  
22 main reason for some of the alcohol-related incidents, including the Taxi  
23 Incident, which took place in 2017. Ayers attempts to address his past alcohol-  
24 related issues by placing the responsibility for the alcohol-related incidents on

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25  
26 <sup>3</sup> Both Ayers and Penny testified that Penny gets upset at times and that he tries to calm her down by hugging her.  
27 Ayers testified that sometimes the hugging works, but sometimes he leaves the house and goes to a hotel or to his  
28 office. Ayers was experienced in diffusing the situation of a family argument by leaving the situation, but failed to do  
so, and failed to take any responsibility for failing to do so, during the Domestic Dispute.

1 his consumption of opioid narcotics and mixing it with alcohol. Ayers has  
2 known about the dangers of mixing opioid narcotics with alcohol, but has  
3 continued to consume both at the same time. Ayers appears to suggest that  
4 since he has stopped taking opioid narcotics (Ayers had his business manager  
5 throw out his opioid narcotics on October 20, 2018 after the evidentiary  
6 hearing on his Application was underway), there will no longer be any alcohol-  
7 related incidents. By doing so, Ayers significantly downplays the role that  
8 alcohol has played in his alcohol-related incidents.

9 97. Ayers also testified that he does not believe that consuming alcohol is a sign of bad  
10 character and that his consumption of alcohol does not pose a threat to the public interest. Ayers  
11 testified that drinking does not interfere with work, and has never interfered with his  
12 responsibilities to his employees or customers. Ayers has been drinking for 40 years and drinking  
13 “is part of my marketing and entertainment to build relationships and clients.” Ayers’s testimony  
14 that drinking has not interfered with his work is mostly supported. There are no known alcohol-  
15 related incidents involving Ayers at work. However, Ayers’s testimony regarding his  
16 consumption of alcohol not posing a threat to the public demonstrates a concerning lack of  
17 accountability. Ayers’s excessive consumption of alcohol posed a direct threat to the public  
18 interest by endangering people’s lives during his 2011 and 2013 DUIs. Ayers’s consumption of  
19 alcohol has resulted in physical injuries to himself and his wife during the Domestic Dispute.  
20 Additionally, police intervention has also been necessary to address Ayers’s many incidents of  
21 public intoxication.

### 22 **XIII. Alcohol Treatment**

23 98. As provided above, Ayers completed an 18 month AEC program following his  
24 convictions for the 2011 and 2013 DUIs. Ayers also completed his 52 week anger management  
25 counseling program following his conviction for the Domestic Dispute. Additionally, Ayers has  
26 sought treatment and counseling as provided below.

27 *A. Thomas Roberts, LMFT, LPCC*  
28

1           99. Thomas E. Roberts (Roberts) is a Licensed Marriage & Family Therapist and a  
2 Licensed Professional Clinical Counselor. On November 1, 2017, Roberts wrote a letter regarding  
3 his treatment of Ayers. Roberts wrote that Ayers is a patient of his because of issues regarding  
4 substance abuse and domestic violence. Roberts wrote that Ayers has attended over 17 counseling  
5 sessions to get both problems under control. Roberts wrote that since the time that Ayers has  
6 attended sessions, he has seen significant progress and a huge improvement in Ayers's demeanor.  
7 Roberts wrote that Ayers has taken his sessions very seriously, has not missed one, and deeply  
8 regrets his past actions, an admission that Ayers discusses each session. Roberts wrote that Ayers  
9 has been extremely receptive to criticism, input, and advice, and understands that it is important  
10 to follow Roberts' guidance to better himself as a person. Roberts wrote that he is confident that  
11 these sessions have had, and will continue to have, a profound and momentous influence on his  
12 future and daily life. Ayers testified that he continues to periodically attend counseling with  
13 Roberts and calls him for occasional support.

14           100. Roberts' letter is dated November 1, 2017, which is just 13 days after Ayers was  
15 arrested for public intoxication for his own protection in the Taxi Incident. The fact that Ayers  
16 had an alcohol-related incident while in counseling, and just thirteen days after Roberts wrote a  
17 letter in support of Ayers, discounts the progress that he says Ayers has made in his treatment and  
18 contradicts the statements written by Roberts in the letter. In fact, nothing in the record reflects  
19 that Ayers told Roberts about the Taxi Incident or that Roberts had any awareness of the Taxi  
20 Incident at the time he wrote the letter.

### 21           ***B. Celebrate Recovery***

22           101. Daniel Tavera (Tavera) is the Ministry Leader for Celebrate Recovery. Celebrate  
23 Recovery is a Christ-centered recovery program. Celebrate Recovery is not based on abstinence.  
24 Tavera states that he has seen healing, and witnessed growth and change take place in Ayers's  
25 life. Tavera states that Ayers has shown commitment and dedication in attending the group and  
26 has shared intimately in their open share group. Tavera can see Ayers applying biblical principles  
27 to his life and stepping more and more out of denial. Tavera states that Ayers has shown interest  
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1 and has volunteered his time in helping others in the ministry through various projects.  
2 Specifically, Ayers and his wife are leading the Angel Tree project, a ministry that serves children  
3 of incarcerated parents. Tavera feels confident with Ayers's progress. Tavera's letter of reference  
4 is undated, so it is unclear whether Tavera knew about Ayers's recent alcohol-related incidents,  
5 such as the Dos Coyotes Incident and the Taxi Incident.

6 102. Ayers testified that he finds Celebrate Recovery to be helpful. Ayers and his wife  
7 continue to attend weekly counseling sessions at Celebrate Recovery.

### 8 *C. Treatment at Chapters Capistrano*

9 103. Ayers successfully completed a 30-day residential treatment program at Chapters  
10 Capistrano from July 5, 2018 to August 4, 2018. Ayers was diagnosed with alcohol use disorder,  
11 mild.

12 104. According to his discharge summary, Ayers's prognosis is excellent. Ayers was an  
13 active participant in the treatment process including group sessions, individual sessions, outside  
14 activities, and aftercare planning. Ayers shows insight into his behaviors and stressors, including  
15 over-working, toxic environment, and limited support network, that have contributed to his  
16 drinking. Ayers also reports an importance to change his lifestyle and reduce anxiety and stress  
17 with healthier outlets.

18 105. Dr. Sharon Stafford (Stafford) wrote a letter regarding Ayers's treatment. Stafford  
19 states that Ayers was very active and engaged in the treatment process, which included, but what  
20 was not limited to, CBG therapy, group session, individual therapy, experiential therapy, recovery  
21 support meetings, etc. Stafford states that Ayers has been open, willing, and transparent about his  
22 past alcohol abuse. Given Ayers's active participation and the seriousness of his actions towards  
23 the treatment process, Stafford believes Ayers has learned positive coping skills and begun to  
24 implement healthier outlets to address his needs and issues successfully and deal with his past  
25 alcohol abuse. Ayers has also been active in his aftercare planning and plans to continue  
26 individual therapy, support group meetings through Celebrate Recovery, attend community  
27 events, and continue to utilize healthy coping skills that will help contribute to long term sobriety.  
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1 **XIV. Assessment of Ayers's suitability for licensure**

2 106. As provided above, Ayers was exhaustive and thorough in his disclosures on the  
3 Applications, both individually and on behalf of Kris Kat. Ayers cooperated with the Bureau  
4 during its background investigation process by providing detailed and exhaustive responses to the  
5 Bureau's dozens of requests for additional information and documentation. Ayers is financially  
6 stable and there are no issues regarding the financial viability of Kris Kat and Ayers to own and  
7 operate the Elks Tower Casino and Lounge.

8 107. Thirteen live witnesses testified on behalf of Ayers and 48 people submitted letters of  
9 reference in support of Ayers's Application. The collective testimony of the 13 live witnesses and  
10 in the 48 letters of reference was impressive. The testimony and letters of reference were  
11 individualized, candid, detailed, and favorably discussed Ayers's personal attributes, work history  
12 and relationships, and philanthropic and charitable giving. The collective testimony is that Ayers  
13 is, among other things, hard-working, generous, civic-minded, charitable, honorable in business  
14 dealings, fair, capable, well-respected, dedicated, and helpful. All of these characteristics reflect  
15 positively on Ayers's character, integrity.

16 108. The burden of proving his or her qualifications to receive a state gambling license is  
17 on the applicant. Ayers possesses many positive attributes for licensure, specifically those  
18 summarized in paragraphs 106 and 107. However, even if Ayers met all of the other requirements  
19 for licensure, Ayers still retains the burden of demonstrating that he is a person whose prior  
20 activities, criminal record, and habits do not pose a threat to the public interest of this state, or to  
21 the effective regulation and control of controlled gambling, or create or enhance the dangers of  
22 unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled  
23 gambling or in the carrying on of the business and financial arrangements incidental thereto. The  
24 Commission shall not issue a gambling license unless it is satisfied that Ayers has met this  
25 burden. For the reasons discussed below, Ayers was unable to meet this burden.

26 **A. Ayers's Criminal Record, Prior Activities and Habits Pose a Threat to the**  
27 **Public Interest of This State and to the Effective Regulation and Control of**  
28

## **Controlled Gambling**

109. Controlled gambling in California is supposed to be just that: controlled gambling. It is a highly regulated industry. The Elks Tower Casino and Lounge would be operating 24 hours a day with alcohol available on-site. To effectively regulate the industry and all of its licensees, the Legislature has required that applicants meet their burden of proving that their past conduct, as shown by the inclusion of “criminal record” and “prior activities,” and current conduct, as shown by the inclusion of “habits,” do not pose a threat to the public interest of this state or to the effective regulation and control of controlled gambling.

110. Overall, Ayers has three criminal convictions and two arrests for public intoxication, as a result of his habit of excessively consuming alcohol to the point of extreme intoxication. There were also several other incidents that have necessitated police intervention. Ayers has endangered his own life and the lives of others while driving under the influence, has caused injuries to himself and his wife while intoxicated, and has been uncooperative and dishonest to law enforcement and medical personnel when he is intoxicated.

111. More specifically, Ayers’s criminal record includes relevant conduct dating back to 2011, and three convictions in the past six years: the 2011 DUI; the 2013 DUI; and the Domestic Dispute, which took place very recently in May 2017 and while Ayers’s Application was under review by state regulators. Ayers’s excessive consumption of alcohol was a substantial contributing factor in each criminal conviction. The facts of each criminal conviction further demonstrate that, perhaps as a result of his intoxication, Ayers was uncooperative and dishonest toward law enforcement and medical personnel. Each of the criminal convictions involved poor judgment by Ayers in consuming alcohol to the point of extreme intoxication. The two DUIs involved the additional poor judgment of driving while under the influence alcohol and endangering his life and the lives of others. Ayers exhibited poor judgment in the Domestic Dispute by exacerbating an already volatile situation by following Penny upstairs, refusing to let her lock the bathroom door, pulling and holding her down, and by repeatedly calling her a “stupid fucking psycho-bitch.” All three incidents (the 2011 DUI, 2013 DUI, and Domestic Dispute)

1 involved Ayers providing dishonest statements to law enforcement, including statements that the  
2 scratches he placed on his arms were caused by Penny. All three criminal convictions also  
3 involved Ayers's uncooperative attitude toward law enforcement and medical personnel.

4 112. Regarding the 2011 DUI, the extent of Ayers's intoxication and his uncooperative  
5 behavior toward law enforcement and medical personnel is alarming. During the 2011 DUI,  
6 Ayers failed to put his motor vehicle in park, and it rolled backward and struck the front of  
7 Officer McChesney's patrol car. Ayers stated several times that his motor vehicle was stopped,  
8 including while it was rolling backward. Officer McChesney had to ask Ayers for his driver's  
9 license, vehicle registration, and insurance at least seven times before Ayers fully complied.  
10 Initially Ayers handed Officer McChesney a work identification instead of his driver's license.  
11 Ayers told Officer McChesney that he was diabetic, which resulted in Officer McChesney  
12 requesting an ambulance for Ayers. Once the Davis Fire Department and emergency responders  
13 arrived on the scene, Ayers became uncooperative and defiant toward the police officers, fire  
14 department, and emergency response personnel. Ayers initially refused to exit his vehicle to speak  
15 with fire department personnel. Once Ayers was in the back of the ambulance, he refused to let  
16 the emergency responders check his blood sugar. At the hospital, Ayers would not speak with the  
17 nurses or the doctor. Ayers again refused to allow medical personnel to check his blood sugar.  
18 Ayers folded his arms in front of his chest. Ayers kept his arms folded in front of his chest even  
19 after Officer McChesney advised Ayers about implied consent and the forcible blood draw. Ayers  
20 kept moving so that the registered nurse could not draw his blood. Restraints had to be used by  
21 the nurse to hold Ayers's right arm at his side so that the nurse could draw his blood.

22 113. Regarding the 2013 DUI, Officer Hanna was notified by dispatch of a reckless driver.  
23 Ayers's vehicle was weaving in a serpentine fashion. Ayers initially reacted to Officer Hanna's  
24 activation of the police vehicle's emergency lights by accelerating and continuing to drive.  
25 Officer Hanna then activated the vehicle's siren. Ayers did not react to the siren and continued  
26 driving. Ayers ignored several commands from Officer Hanna to stop his vehicle via the PA  
27 system. When Ayers finally stopped his vehicle, he then exited the vehicle and ignored Officer  
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1 Hanna's command to stay in the vehicle. Ayers lied to Officer Hanna by stating that he had not  
2 consumed any alcohol earlier that day. Ayers became argumentative after being asked some pre-  
3 field sobriety test questions. Ayers stopped answering Hanna's questions and would no longer  
4 respond to Officer Hanna. After placing Ayers in the rear seat of the police vehicle, Ayers passed  
5 out. After arriving in the California Highway Patrol office, Ayers stated that he was not refusing  
6 to take a chemical test, but in fact he was refusing. Ayers twice told Officer Hanna that he would  
7 take a breath test but then refused after Officer Hanna had prepared the breath machine. Ayers  
8 repeatedly stated that he wanted to talk, but then complained when given a time restraint for the  
9 conversation. Ayers continued to talk about how the situation was unjust. After Officer Hanna  
10 informed Ayers that he or she was going to conduct a blood test via a non-consensual blood draw,  
11 Ayers became angry. Ayers had to be physically restrained. Three police officers were required to  
12 subdue Ayers. Ayers was placed face first, flat on the ground. As the paramedic was about to take  
13 a blood draw from Ayers, Ayers began to struggle. Officer Pressley pinned Ayers down to the  
14 floor as Ayers's head thrashed side to side. The paramedic was finally able to draw a blood  
15 sample from Ayers's arm. Ayers was taken to the hospital for a medical clearance. Ayers's  
16 uncooperative and defiant behavior continued. Ayers spoke loudly about the injustices he had  
17 suffered. Several nurses attempted to take his blood pressure but Ayers would not allow them to  
18 touch him. Ayers would not answer the doctor's questions. After receiving a medical clearance,  
19 Ayers began to shout about the situation. As Ayers was being led out of the hospital, Ayers then  
20 told Officer Hanna that his ribs hurt and that he wanted a doctor to look at them, despite the fact  
21 that he was just in the hospital and would not cooperate with the doctor and nurses. Officer Hanna  
22 determined that Ayers was likely stalling, but had Ayers examined by the nurse at the Yolo  
23 County Jail who found no issue with his ribs and that his breathing was normal.

24 114. Ayers exhibited similar behavior during the Domestic Dispute. Ayers consumed  
25 alcohol to the point of intoxication. Examining the evidence and testimony in the most positive  
26 light, at a minimum Ayers exacerbated an already volatile situation by following Penny upstairs,  
27 refusing to let her lock the bathroom door, pulling and holding her down, and by calling her filthy  
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1 names. Ayers then placed scratch marks on his own arms while yelling that Penny was hurting  
2 him. Once law enforcement arrived, Ayers repeatedly pointed to his arms and lied to the police by  
3 stating that Penny had caused the scratches. Ayers physically harmed himself to try to get Penny  
4 arrested for domestic violence by stating that she caused his injuries.

5 115. In addition to these criminal convictions, the Davis Police Department investigated  
6 several incidents at Ayers's residence. In two of the police calls, Ayers was involved in a dispute  
7 with his daughter. In two other police calls, Ayers was uncooperative with taxi drivers. Ayers  
8 refused to pay one taxi driver, and refused to exit the taxi of another. In another incident, a  
9 neighbor of Ayers woke him up after he had fallen asleep on his front patio and given her  
10 background as a nurse, believed that Ayers was under the influence of an unknown substance.

11 116. In 2017, in addition to the Domestic Dispute, Ayers was also arrested twice for public  
12 intoxication (the Dos Coyotes Incident and the Taxi Incident) because he was a danger to himself  
13 in his intoxicated condition. These three incidents occurred while Ayers's Application was under  
14 review by state regulators.

15 117. Taken together, these criminal convictions, arrests, and other alcohol-related  
16 incidents show that Ayers has a habit of consuming alcohol to the point of intoxication where  
17 police intervention is necessary to protect himself and others from harm. They also show that  
18 Ayers has a habit of exercising poor judgment as it relates to the consumption of alcohol: first, by  
19 consuming alcohol to the point of intoxication and police intervention; and second, by being  
20 dishonest and uncooperative with law enforcement, medical personnel, and members of the  
21 public when he is intoxicated.

22 118. The steps that Ayers has taken to address his alcohol-related issues, such as attending  
23 counseling, have simply not proven effective in helping Ayers moderate his consumption of  
24 alcohol or improve his behavior when intoxicated.

25 119. The question is not whether Ayers will continue to consume alcohol. Ayers already  
26 asserted that he will continue to consume alcohol for business purposes and to relax. The question  
27 is the level of risk to the public and to controlled gambling due to Ayers's habit of consuming  
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1 alcohol to the point of intoxication in which police intervention is necessary, which has happened  
2 on at least three occasions in 2017 and several more starting in 2011. Then there is the additional  
3 risk to the public and to controlled gambling of Ayers exercising poor judgment, being  
4 uncooperative (as he was with medical personnel, law enforcement, and members of the public),  
5 dishonest (as he was with law enforcement), and exacerbating situations while he is intoxicated.

6 120. Ayers testified that similar to the last 40 years, if a client wants to meet with him and  
7 is going to give him a contract, Ayers will drink. He testified that if he receives a call tomorrow,  
8 he will drink. At the end of the evidentiary hearing, Ayers testified “I will have a drink. What I do  
9 is market, it’s what I do. I will.”

10 121. The threat of future alcohol-related incidents occurring at work is greatly  
11 compounded by Ayers’s testimony that he will be very involved in the Elks Tower Casino and  
12 Lounge, which will operate 24 hours per day, 7 days per week, and has alcohol available on-site,  
13 and Ayers’s assertion that he will continue to consume alcohol, “starting tomorrow if he receives  
14 a call.” A cardroom owner’s habit of excessively consuming alcohol and exercising poor  
15 judgment while intoxicated can affect the operation of a cardroom. A cardroom owner’s impaired  
16 judgment could lead to violations of the Gambling Control Act and federal, state and Commission  
17 laws and regulations. A cardroom owner’s habit of being uncooperative and dishonest with law  
18 enforcement while intoxicated could obstruct the Bureau’s attempts to ensure compliance through  
19 audits, inspections, or investigations. A cardroom owner’s inability to moderate the consumption  
20 of alcohol, to exercise good judgment, and to cooperate with and be honest toward law  
21 enforcement, could jeopardize the lawful operation of a cardroom and undermine the public trust  
22 that the controlled gambling operations are free from criminal and dishonest elements and will be  
23 conducted honestly. Ayers is the sole owner of Kris Kat and its Managing Member. Ayers is the  
24 ultimate decision maker for everything having to do with the Elks Tower Casino and Lounge.  
25 Based on the evidence presented, Ayers presents a substantial risk to the effective regulation and  
26 control of controlled gambling.

27 122. Additionally, many of the factors and triggers that contributed to Ayers’s excessive  
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1 consumption of alcohol and its related incidents are still present. In fact, based on the recency of  
2 his alcohol-related incidents in 2017, there is a substantial risk to the public of another alcohol-  
3 related incident.

4 123. Ayers has frequently exercised poor judgment by consuming alcohol to the point of  
5 intoxication. He then compounds the problem through the exercise of additional poor judgment  
6 once intoxicated, including by driving while under the influence of alcohol, becoming  
7 argumentative with members of the public, and being uncooperative and dishonest with law  
8 enforcement. Ayers has demonstrated both a lengthy and recent inability to moderate his alcohol  
9 consumption. Ayers testified that he will continue consuming alcohol and the factors and triggers  
10 contributing to his excessive alcohol consumption are still present in his life. As a result, Ayers  
11 has failed to meet his burden of demonstrating that his criminal record, prior activities, and habits  
12 of excessively consuming alcohol, and exercising poor judgment once intoxicated, do not pose a  
13 threat to the public interest of this state.

14 124. Poor judgment in controlled gambling can jeopardize the lawful operation of a  
15 cardroom. The evidence shows that while consuming alcohol, Ayers could have disputes with co-  
16 workers, third-party providers of proposition player services, or patrons, such as he did with  
17 members of the public and his family. Ayers has already demonstrated that he can be dishonest  
18 and uncooperative with law enforcement when he is intoxicated. Most importantly, the burden is  
19 on Ayers to demonstrate his suitability. Ayers never offered any convincing evidence that his  
20 habit of excessively consuming alcohol and making poor decisions once intoxicated is under  
21 control and will not be a factor in how he owns and operates the Elks Tower Casino and Lounge.

22 125. Based on the foregoing, and given the nature of controlled gambling as a highly  
23 regulated industry, with the proposed Elks Tower Casino and Lounge offering controlled  
24 gambling 24 hours per day and 7 days per week, and with alcohol available onsite, Ayers has also  
25 failed to meet his burden of demonstrating that his criminal record, prior activities, and habits of  
26 excessively consuming alcohol and exercising poor judgment while intoxicated, do not pose a  
27 threat to the effective regulation and control of controlled gambling.  
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1           126. The Commission has the authority, for any cause deemed reasonable by the  
2 Commission, to condition the granting of a state gambling license. The Commission exhaustively  
3 considered whether the risks posed to the public and to the effective regulation and control of  
4 controlled gambling by Ayers's habit of consuming alcohol to the point of intoxication, acting in  
5 an uncooperative manner to members of the public and law enforcement and being dishonest to  
6 law enforcement while intoxicated, could be effectively mitigated by conditioning an approval of  
7 his Application. However, the Commission could not identify conditions that could fully mitigate  
8 the risk to the public and to the effective control of controlled gambling given all of Ayers's  
9 alcohol-related incidents, his failure to successfully moderate his consumption of alcohol, his  
10 dishonest and uncooperative nature while intoxicated, and his testimony that he will continue  
11 consuming alcohol both for business and for pleasure. Ayers's habits related to alcohol, and the  
12 resulting poor judgment, pose a threat to the public interest and to the effective regulation and  
13 control of controlled gambling.

14           127. All documentary and testimonial evidence submitted by the parties that is not  
15 specifically addressed in this Decision and Order was considered but not used by the Commission  
16 in making its determination on Respondents' Applications.

17           128. The matter was submitted for Commission consideration on October 31, 2018.

### 18                           **LEGAL CONCLUSIONS**

19           1. Division 1.5 of the Business and Professions Code, the provisions of which govern the  
20 denial of licenses on various grounds, does not apply to licensure decisions made by the  
21 Commission under the Gambling Control Act. Business and Professions Code section 476(a).

22           2. Public trust and confidence can only be maintained by strict and comprehensive  
23 regulation of all persons, locations, practices, associations, and activities related to the operation  
24 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
25 equipment. Business and Professions Code section 19801(h).

26           3. The Commission has the responsibility of assuring that licenses, approvals, and  
27 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose  
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1 operations are conducted in a manner that is inimical to the public health, safety, or welfare.  
2 Business and Professions Code section 19823(a)(1).

3 4. The Commission has the responsibility of assuring that there is no material  
4 involvement, directly or indirectly, with a licensed gambling operation, or the ownership or  
5 management thereof, by unqualified or disqualified persons, or by persons whose operations are  
6 conducted in a manner that is inimical to the public health, safety, or welfare. Business and  
7 Professions Code section 19823(a)(2).

8 5. An “unqualified person” means a person who is found to be unqualified pursuant to  
9 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to  
10 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code  
11 section 19823(b).

12 6. The Commission has the power to deny any application for a license, permit, or  
13 approval for any cause deemed reasonable by the Commission. Business and Professions Code  
14 section 19824(b).

15 7. The Commission has the power to take actions deemed to be reasonable to ensure that  
16 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled  
17 gambling activities. Business and Professions Code section 19824(d).

18 8. Every person who, either as owner, lessee, or employee, whether for hire or not, either  
19 solely or in conjunction with others, deals, operates, carries on, conducts, maintains, or exposes  
20 for play any controlled game in this state, or who receives, directly or indirectly, any  
21 compensation or reward, or any percentage or share of the money or property played, for keeping,  
22 running, or carrying on any controlled game in this state, shall apply for and obtain from the  
23 commission, and shall thereafter maintain, a valid state gambling license, key employee license,  
24 or work permit, as specified in this chapter. Business and Professions Code section 19850.

25 9. The owner of a gambling enterprise shall apply for and obtain a state gambling  
26 license. Business and Professions Code section 19851(a).

27 10. Except as provided in Section 19852.2, an owner of a gambling enterprise that is not a  
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1 natural person shall not be eligible for a state gambling license unless each of the following  
2 persons individually applies for and obtains a state gambling license: if the owner is a limited  
3 liability company, every officer, manager, member, or owner. Business and Professions Code  
4 section 19852(f).

5 11. The burden of proving his or her qualifications to receive any license from the  
6 Commission is on the applicant. Business and Professions Code section 19856(a).

7 12. An application to receive a license constitutes a request for a determination of the  
8 applicant's general character, integrity, and ability to participate in, engage in, or be associated  
9 with, controlled gambling. Business and Professions Code section 19856(b).

10 13. In reviewing an application for any license, the commission shall consider whether  
11 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the  
12 license will undermine public trust that the gambling operations with respect to which the license  
13 would be issued are free from criminal and dishonest elements and would be conducted honestly.  
14 Business and Professions Code section 19856(c).

15 14. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
16 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or  
17 her qualifications to receive any license under the Gambling Control Act. CCR section 12060(i).

18 15. No gambling license shall be issued unless, based on all of the information and  
19 documents submitted, the commission is satisfied that the applicant is a person of good character,  
20 honesty, and integrity. Business and Professions Code section 19857(a).

21 16. No gambling license shall be issued unless, based on all of the information and  
22 documents submitted, the commission is satisfied that the applicant is a person whose prior  
23 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the  
24 public interest of this state, or to the effective regulation and control of controlled gambling, or  
25 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in  
26 the conduct of controlled gambling or in the carrying on of the business and financial  
27 arrangements incidental thereto. Business and Professions Code section 19857(b).

1           17. No gambling license shall be issued unless, based on all of the information and  
2 documents submitted, the commission is satisfied that the applicant is a person that is in all other  
3 respects qualified to be licensed as provided in this chapter. Business and Professions Code  
4 section 19857(c).

5           18. An application for a gambling license shall be denied by the Commission if the  
6 Commission finds that the applicant is ineligible, unqualified, disqualified, or unsuitable pursuant  
7 to the criteria set forth in the Act or other applicable law or that granting the license would be  
8 inimical to public health, safety, welfare, or would undermine the public trust that gambling  
9 operations are free from criminal or dishonest elements. CCR section 12346(a)(1).

10           19. Application for a state license or other commission action shall be submitted to the  
11 department on forms furnished by the department. Business and Professions Code section  
12 19864(a).

13           20. The department shall furnish to the applicant supplemental forms, which the applicant  
14 shall complete and file with the department. These supplemental forms shall require, but shall not  
15 be limited to requiring, complete information and details with respect to the applicant's personal  
16 history, habits, character, criminal record, business activities, financial affairs, and business  
17 associates, covering at least a 10-year period immediately preceding the date of filing of the  
18 application. Business and Professions Code section 19865.

19           21. An applicant for licensing or for any approval or consent required by this chapter,  
20 shall make full and true disclosure of all information to the department and the commission as  
21 necessary to carry out the policies of this state relating to licensing, registration, and control of  
22 gambling. Business and Professions Code section 19866.

23           22. Ayers failed to meet his burden of demonstrating that his prior activities, criminal  
24 record, and habits do not pose a threat to the public interest of the State of California.

25           23. Ayers failed to meet his burden of demonstrating that his prior activities, criminal  
26 record, and habits do not pose a threat to the effective regulation and control of controlled  
27 gambling.  
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24. As a result of the Legal Conclusions reached in paragraphs 23 and 24, Ayers is unqualified for licensure pursuant to Business and Professions Code section 19857(b). Given the Commission's finding that Ayers is unqualified for licensure pursuant to the criteria set forth in Business and Professions Code section 19857(b), Ayers's Application is subject to denial pursuant to Business and Professions Code section 19857(b) and CCR section 12346(a)(1).

25. Kris Kat is a limited liability company and the potential owner of the Elks Tower Casino and Lounge. Kris Kat is not eligible for a state gambling license unless every officer, manager, member, or owner of Kris Kat individually applies for and obtains a state gambling license. Kris Kat's sole owner and Managing Member is Ayers. Ayers individually applied for a state gambling license. However, Ayers's Application is subject to denial. As a result, Kris Kat is not eligible for a state gambling license, and its Application is subject to denial pursuant to Business and Professions Code section 19852(f).

## NOTICE OF APPLICANT'S APPEAL RIGHTS

Respondents Kris Kat and Ayers have the following appeal rights available under state law:

CCR section 12064, subsections (a) and (b) provide, in part:

An applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later. The request shall be made in writing to the Commission, copied to the Bureau, and shall state the reasons for the request, which must be based upon either newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission's issuance of the decision or at the hearing on the matter, or upon other good cause which the Commission may decide, in its sole discretion, merits reconsideration.

Business and Professions Code section 19870, subdivision (e) provides:

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 foregoing sentence, 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.

CCR section 12066, subsection (c) provides:

A decision of the Commission denying an application or imposing conditions on license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected by failure to seek reconsideration.

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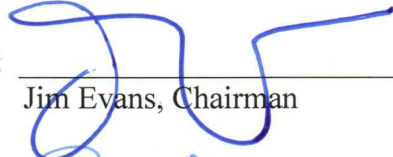
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**ORDER**

1. Respondent Kris Kat, LLC's Application for State Gambling License is DENIED.
2. Respondent Steven Ayers's Application for State Gambling License is DENIED.
3. No costs are to be awarded.
4. Each side to pay its own attorneys' fees.

This Order is effective on February 13, 2019.

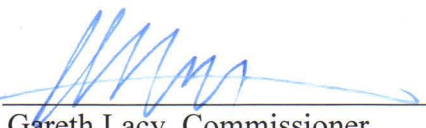
Dated: 1/12/2019

Signature:   
Jim Evans, Chairman


Dated: 1/11/2019

Signature:   
Paula LaBrie, Commissioner

Dated: 1/12/2019

Signature:   
Gareth Lacy, Commissioner

Dated: 1/12/2019

Signature:   
Trang To, Commissioner