

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons for Denial of Application for Personal Portable Key Employee Regarding:

CHARLES MCCORMICK, JR.

Respondent.

BGC Case No. BGC-HQ2015-00019SL  
CGCC Case No. CGCC-2015-0924-7

**DECISION AND ORDER**

Hearing Date: May 17, 2016  
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(b), in Sacramento, California, on May 17, 2016.

Paras Modha, Deputy Attorney General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Jarhett Blonien, Blonien & Associates, Inc. represented Charles McCormick, Jr. (Respondent) at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the following:

- (a) Notice of Evidentiary Hearing;
- (b) Conclusion of Prehearing Conference Letter;
- (c) Statement of Reasons;
- (d) Notice of Defense;

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

- (1) Statement of Reasons filed and served by the Bureau and attachments, Bates Nos. 001-025;
- (2) December 11, 2015 Notice of Hearing and Prehearing Conference, Bates

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- Nos. 0026-0041;
- (3) Notice of Defense signed by Respondent on October 5, 2015, Bates Nos. 0042-0043;
  - (4) Referral of Application for Renewal of Key Employee License to Evidentiary Hearing dated September 24, 2015, Bates Nos. 0044-0046;
  - (5) Gambling Control Commission Meeting Memorandum dated September 24, 2015, Bates Nos. 0047-0049;
  - (6) Letters to CGCC requesting extensions dated February 20, 2014, April 14, 2014, and September 1, 2015, Bates Nos. 0050-0052;
  - (7) CGCC Meeting Memorandum dated May 14, 2015, Bates No. 0053;
  - (8) CGCC Meeting Memorandum dated February 25, 2015, Bates Nos. 0054-0055;
  - (9) Background Investigation Reported dated January 14, 2015, Bates Nos. 0056-0062;
  - (10) Telephone Contract Sheets for the following: Department of Revenue dated November 13, 2014 and December 10, 2014, Cowlitz Superior Court dated November 13, 2014, and Charles McCormick dated January 7, 2015, Bates Nos. 0063-0067;
  - (11) Respondents' Applications for Gambling Establishments Key Employee License for years 2010, 2013, and 2014, Bates Nos. 0068-0078;
  - (12) Email correspondence to Jessica Quiles, Washington State Gambling Commission and response dated January 9, 2015, Bates Nos. 0079-0099;
  - (13) Summary of Events with OT Enterprises/Charles McCormick from February 2011-December 2012 dated January 7, 2013, Bates Nos. 0100-0101;
  - (14) Summary of Tax Warrant dated January 7, 2015, Bates Nos. 0102-0105;
  - (15) Email Correspondence between Respondent and Bureau Licensing Staff



1 19, 2008, October 12, 2010, January 30, 2013, October 21, 2014, Bates  
2 Nos. 0920-0932;

3 (29) Washington Payment Agreement issued September 26, 2014, Bates Nos.  
4 0933-0934.

5 During the administrative hearing, Presiding Officer Jason Pope accepted into evidence  
6 the following exhibits offered by Respondent:

7 (A) August correspondence from Ocean's 11 to Bureau Analyst Amy Arndt;

8 (B) State of Washington Office of Administrative Hearings Notice of Hearing  
9 on 1/31/13; Request for Appeal dated 1/10/13, 1/10/13 signed letter from owners of OT  
10 Enterprises; Statement of Wages and Hours;

11 After the administrative hearing, but before the close of evidence, Respondent submitted  
12 the following exhibits:

13 (C) Correspondence from Washington Department of Revenue to Respondent  
14 dated June 3, 2016.

15 The matter was submitted on June 27, 2016.

16 FINDINGS OF FACT

17 1. On or about November 3, 2014, the Bureau received Respondent's Renewal  
18 Application for Gambling Establishment Key Employee License (Application) as an Assistant  
19 General Manager at the Village Club Cardroom in Chula Vista.

20 2. On Respondent's Application he indicated that he had not acquired or increased a  
21 financial interest in a business that conducts lawful gambling outside the state since last filing a  
22 key employee license application.

23 3. Respondent also indicated on his Application that he had been a party to civil litigation  
24 since he last filed an application for a key employee license. Respondent attached additional  
25 information to his renewal application regarding the litigation explaining that he was associated  
26 with OT Enterprises, LLC dba Oak Tree Restaurant and Cardroom (Oak Tree) in Washington for  
27 a period of one year acting as a General Manager.

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1           4. In January 2015, the Bureau issued a Background Investigation Report recommending  
2 that the Commission deny Respondent's Application. The recommendation was based in part on  
3 the conclusion that Respondent held more than a one percent of financial interest in the Oak Tree  
4 while being licensed as a key employee in California, in violation of Business and Professions  
5 Code section 19858.

6           5. At its September 24, 2015 meeting the Commission referred Respondent's Application  
7 to an evidentiary hearing.

8           6. On September 24, 2015 the Commission's Deputy Director, Licensing Division,  
9 referred the matter to hearing pursuant to California Code of Regulations (CCR) Title 4, Division  
10 18, Chapter 1, Section 12060, subdivision (b).

11           7. On or about October 5, 2015, Respondent submitted a Notice of Defense to the  
12 Commission.

13           8. The Bureau filed a Statement of Reasons on February 24, 2016 identifying four causes  
14 for denial. The first and second causes for denial are for Respondent's alleged financial interest in  
15 prohibited gambling for banked games and slot machines at the Oak Tree. Contrary to the  
16 conclusion in the Bureau Report that Respondent did not need to disclose his interest in OT  
17 Enterprises on his Application, the third cause for denial is based on an alleged failure by  
18 Respondent to disclose that he held a prohibited financial interest in the Oak Tree. The Fourth  
19 Cause for Denial is based on allegations that Respondent operated the Oak Tree in a manner that  
20 demonstrates that he is unsuitable for licensure.

21           9. The Commission heard Case No. CGCC-2015-0924-7 on May 17, 2016. The Bureau  
22 was represented throughout the pendency of the hearing by Deputy Attorney General Paras  
23 Modha. Respondent was represented by Jarhett Blonien.

24           10. The Commission reaches no conclusion on the legal question of whether Business and  
25 Professions Code Section 19858 applies to key employees because it is not necessary to  
26 determine the outcome of this proceeding. Respondent did not have a financial interest in the  
27 Oak Tree. Further, Respondent had a reasonable belief that he surrendered his key employee  
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1 license when he moved to Washington.<sup>1</sup>

2 11. In March 2011 while Respondent worked at Oceans 11 in California as the Casino  
3 Manager, a gentleman named Mike Bacelli<sup>2</sup> (Bacelli) approached Respondent to inquire whether  
4 Respondent would be interested in opening and managing a cardroom in Woodland, Washington.

5 12. After a few conversations with Bacelli, Respondent visited Bacelli, Terry Isom  
6 (Isom), Steve Hanson, and Belal Alkhatib (Alkhatib) in Washington to discuss the opportunity.  
7 Alkhatib was the owner of an existing restaurant called the Oak Tree, which would also be the  
8 location of the new cardroom.

9 13. On or about April 15, 2011, Respondent resigned from the Oceans 11 Cardroom to  
10 move to Washington to work as the Cardroom Manager of the Oak Tree. Respondent testified  
11 that he believed Oceans 11 would notify the Bureau that he was no longer employed there and  
12 that nothing further was required of him.

13 14. Respondent took the job in Washington pursuant to a verbal agreement with Bacelli  
14 and Alkhatib that after two years of working as the Cardroom Manager, he would obtain a 2%  
15 ownership interest in the Oak Tree if all investors had been repaid. Respondent never made a  
16 financial investment in the Oak Tree.

17 15. After Respondent moved to Washington, Respondent's agreement with the owners of  
18 the Oak Tree changed due to Steve Hanson, a major investor, backing out of the project. The new  
19 agreement required Respondent to find investors in the Oak Tree, and in return, he would be  
20 entitled to a larger ownership interest at the end of the two year contingency period.

21 16. Respondent was able to obtain six investors in the Oak Tree project.

22 17. Isom and Alkhatib entered into an agreement, the details of which were not clear to  
23 Respondent, wherein Isom was treated as the primary investor and owner of a new LLC formed  
24 with Respondent and his investors called OT Enterprises, LLC dba Oak Tree Restaurant and  
25 Cardroom. However, Isom did not invest any funds into the Oak Tree. Alkhatib would not be a

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27 <sup>1</sup> It is also worth noting that at no point that Respondent was affiliated with the Oak Tree in Washington was  
he also working as a key employee in the state of California.

28 <sup>2</sup> The transcript of this proceeding indicates that "Bacelli" is the phonetic spelling of the name.

1 member of the LLC, although he owned the building and restaurant the Oak Tree operated in.

2 18. While Respondent signed documents stating that he was an investor and/or an owner  
3 in the Oak Tree, these documents did not accurately reflect Respondent's ownership interest or  
4 his financial investment, or lack thereof, in the Oak Tree.

5 19. Respondent testified that he signed documents indicating that he was a financial  
6 investor and/or owner in the Oak Tree because an attorney provided to him by Isom and Alkhatib  
7 asked him to sign the documents.

8 20. The Oak Tree opened to the public on approximately December 26, 2011.

9 21. Ultimately, the Oak Tree was not profitable and closed on approximately December  
10 16, 2012. At that time, the Oak Tree was sold by Isom and Alkhatib to new owners. Alkhatib  
11 changed the locks on the property. Neither Respondent nor the investors he procured received  
12 any of the sale proceeds and were not permitted to reenter the property to obtain their belongings.

13 22. After the Oak Tree closed in December 2012, a friend told Respondent that  
14 Respondent's renewal application was sent to his house. Respondent testified that he was  
15 surprised to learn that he still held a valid key employee license in California that he could renew.  
16 Respondent completed the Application and signed it on January 30, 2013.

17 23. On the Application, Respondent indicated that he had not acquired or increased a  
18 financial interest in a business that conducts lawful gambling outside the state since last filing a  
19 key employee license application. Respondent never had a financial interest in the Oak Tree  
20 because his ownership interest did not vest until he had worked there for two years and all  
21 investors were repaid.

22 24. Respondent's testimony was credible that he believed that he answered the question  
23 on his Application truthfully because he never considered himself to be a financial interest holder  
24 in the Oak Tree while he was a key employee in California. Respondent's testimony was further  
25 corroborated by two witnesses, Edith Sanchez and Kevin O'Neill, both of whom testified that  
26 their understanding as investors in the Oak Tree was that Respondent would not have a financial  
27 interest in the casino unless the Oak Tree remained open for two years and all investors were  
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1 repaid. Respondent also admitted Exhibit B, a letter from Oak Tree owners Kevin O’Neill, Chris  
2 Poma, Terry Isom, and George Cannesa dated January 2013, stating that Respondent was not an  
3 owner of OT Enterprises/Oak Tree because certain conditions were never met.

4 25. Respondent disclosed on his Application his involvement in litigation relating to the  
5 Oak Tree and voluntarily provided documentation that clearly notified the Bureau of  
6 Respondent’s prior involvement in the Oak Tree.

7 26. Respondent testified that when the Oak Tree Casino closed, there was not enough  
8 money in the account to cover payroll because the Washington Department of Revenue (DOR)  
9 had seized Oak Tree’s account. Respondent testified that he called Alkhatib and asked him to pay  
10 the employees pursuant to a prior verbal agreement, but Alkhatib refused.

11 27. The failure to pay all final wages to the Oak Tree employees resulted in a judgment in  
12 favor of the Washington Department of Labor and Industries (DOLI) against Respondent and the  
13 Oak Tree. Respondent testified that he makes monthly payments to the DOLI.

14 28. Respondent testified that the Bureau notified him that licensing fees were owed to the  
15 Washington Gaming Commission for the Oak Trees license. Thereafter Respondent contacted  
16 the Gaming Commission and began making monthly payments towards the unpaid licensing fees.

17 29. The DOR issued a tax warrant against the Oak Tree and Respondent. Respondent  
18 testified that the DOR told him that they were not going to pursue him for the unpaid taxes unless  
19 he opened a business in Washington. The Bureau Report confirms that the DOR is not pursuing  
20 the case because Respondent does not reside in Washington.

21 30. Despite the fact that Respondent did not receive any of the sale proceeds from the  
22 Oak Tree Casino and did not hold an ownership interest in the Oak Tree, Respondent has  
23 endeavored to repay the debts owed to the DOLI and the Washington Gaming Commission. The  
24 fact that Respondent is attempting to repay these debts indicates that he is a person of good  
25 character and integrity.

26 31. Respondent began working in the gaming industry in approximately 1974 and has  
27 been continually employed in the industry ever since. Respondent has never been disciplined by  
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1 his employers or by gambling regulators, which indicates that his licensure will not enhance the  
2 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of  
3 controlled gambling.

4 32. During the hearing, Daniel Dreger, Robert Moyer, Stephen Gallagher, Ezzet Georges,  
5 Kevin O’Neill, James Smith and Edith McCormick Sanchez testified on Respondent’s behalf.  
6 The testimony of these witnesses was favorable toward Respondent’s character and in support of  
7 his Application.

8 33. The Commission found the testimony of Kevin O’Neil and Edith McCormick  
9 Sanchez to be particularly persuasive. These individuals were solicited by Respondent to invest  
10 in the Oak Tree, which ultimately resulted in them losing large amounts of money. Despite the  
11 large financial loss incurred by these individuals, they testified that Respondent was a person of  
12 good character and integrity.

13 34. Based on Respondent’s positive work history; his efforts to repay the debt owed to the  
14 DOLI and the Washington Gaming Commission; and the supporting testimony of multiple  
15 character witnesses, Respondent has demonstrated that he is a person of good character, honesty,  
16 and integrity.

17 35. Respondent’s prior activities, criminal record, reputation, habits and associations do  
18 not pose a threat to the public interest of this state, or to the effective regulation and control of  
19 controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices,  
20 methods, and activities in the conduct of controlled gambling or in the carrying on of the business  
21 and financial arrangements incidental thereto.

22 36. All documentary and testimonial evidence submitted by the parties that is not  
23 specifically addressed in this Decision and Order was considered but not used by the Commission  
24 in making its determination on Respondent’s Application.

25 39. The matter was submitted for Commission consideration on June 27, 2016.

## 26 LEGAL CONCLUSIONS

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

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

7 3. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
8 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to  
9 prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,  
10 CCR section 12060(i). Business and Professions Code section 19856(a).

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

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

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

23 7. An "unqualified person" means a person who is found to be unqualified pursuant to  
24 the criteria set forth in Business and Professions Code section 19857, and "disqualified person"  
25 means a person who is found to be disqualified pursuant to the criteria set forth in Business and  
26 Professions Code section 19859. Business and Professions Code section 19823(b).

27 8. The Commission has the power to deny any application for a license, permit, or  
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1 approval for any cause deemed reasonable by the Commission. Business and Professions Code  
2 section 19824(b).

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

6 10. An application for a Key Employee License shall be denied by the Commission if the  
7 applicant is found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of  
8 Business and Professions Code section 19857.

9 11. Respondent met his burden of demonstrating that he is a person of honesty and  
10 integrity. Therefore, Respondent is qualified for the issuance of a Key Employee License  
11 pursuant to Business and Professions Code section 19857(a).

#### 12 NOTICE OF APPLICANT'S APPEAL RIGHTS

13 Respondent Charles McCormick, Jr. has the following appeal rights available under state law:

14 Title 4, CCR section 12064, subsections (a) and (b) provide, in part:

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

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

26 A decision of the commission denying a license or approval, or imposing any  
27 condition or restriction on the grant of a license or approval may be reviewed by  
28 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.

Title 4, 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


1 19870, subdivision (e). Neither the right to petition for judicial review nor the time for  
2 filing the petition shall be affected by failure to seek reconsideration.

3 ORDER

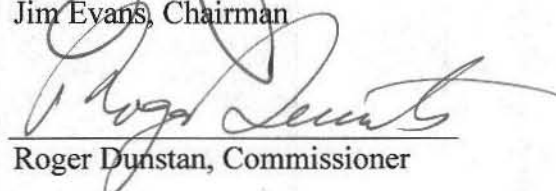
- 4 1. Charles McCormick, Jr.'s Application for a Key Employee License is GRANTED.  
5 2. Each side to pay its own attorneys' fees.

6 This Order is effective on August 25, 2016.

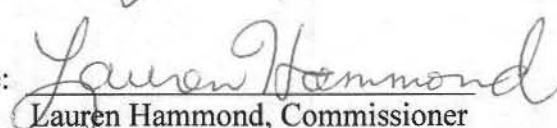
7 Dated: 8/25/16

8 Signature:   
9 Jim Evans, Chairman

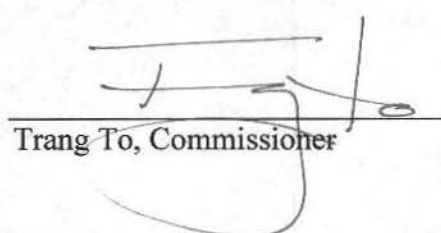
10 Dated: 8/25/16

11 Signature:   
12 Roger Dunstan, Commissioner

13 Dated: 8/25/16

14 Signature:   
15 Lauren Hammond, Commissioner

16 Dated: 8/25/16

17 Signature:   
18 Trang To, Commissioner