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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons
Regarding:

ADAM RICHARD SOULES

4509 Riverscape Drive
Riverside, CA 92505

Respondent.

BGC Case No. CEKE-001368
CGCC Case No. 2010-05-27

DECISION AND ORDER

Hearing Date: April 30, 2014
Time: 10:00 am

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 12050(b)(2), in Sacramento, California, on April 30, 2014.

Jennifer Henderson, 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.

Adam Richard Soules (Soules) failed to appear and was not represented at the hearing.

The matter was submitted on April 30, 2014.

FACTUAL FINDINGS

1. On or about January 7, 2008, Soules submitted an Application for Gambling Establishment Key Employee License (Application) to the Commission. The Application requires the applicant to disclose criminal and litigation history, financial history, and other detailed information.

2. On June 25, 2009, the Commission voted to preliminarily deny Soules' Application.

3. On or about July 3, 2009, Soules requested reconsideration of the Commission's preliminary denial of his Application.

4. The Commission scheduled the reconsideration of its preliminary denial of Soules' Application for May 27, 2010. Prior to the meeting, on or about May 20, 2010, Soules submitted a written request for an evidentiary hearing. At its May 27, 2010 meeting, the Commission

1 referred the matter for an evidentiary hearing.

2 5. On June 10, 2010, the Executive Director of the Commission set the matter for an
3 administrative hearing to be conducted pursuant to Business and Professions Code sections 19870
4 and 19871 and Title 4, CCR section 12050(b)(2).

5 6. On December 16, 2013, the Bureau filed and served a Statement of Reasons on Soules
6 recommending the denial of his Application.

7 7. On January 24, 2014, the Commission served a Notice of Hearing and Prehearing
8 Conference, via certified mail, on Soules and the Bureau.

9 8. On April 3, 2014, the noticed Prehearing Conference was held before Presiding
10 Officer Jason Pope, Attorney III of the Commission. Soules failed to attend the prehearing
11 conference.

12 9. The Commission heard Case No. CGCC-2010-05-27 on April 30, 2014. The
13 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
14 Jennifer Henderson. Soules failed to appear throughout the pendency of the hearing or make any
15 contact with the Commission or the Bureau.

16 10. During the administrative hearing, Presiding Officer Jason Pope took official notice of
17 the following:

18 (a) Notice of Hearing and Prehearing Conference, dated January 24, 2014, served
19 by certified mail, return receipt requested; and

20 (b) Notice and Agenda of Commission Hearing for April 30, 2014 reflecting the
21 hearing on Soules' Application.

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

24 (a) Statement of Reasons filed and served by the Bureau;

25 (b) Copies of the January 24, 2014 Notice of Hearing and Prehearing Conference;

26 (c) Copy of the Minutes of the May 27, 2010 Commission meeting;

27 (d) Certified copies of Bureau official records consisting of Soules' Application;
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1 Letter dated April 11, 2008 to Soules from the Bureau with Soules' response
2 attached; Bureau's Cardroom Key Employee Background Investigation
3 Report, dated October 15, 2009; E-mail to Mable Thornton from Soules, dated
4 September 23, 2008; E-mail to Chris Davis from Marianne Estes, dated May
5 24, 2010 with attachment; Authorization to Release Information signed by
6 Soules, dated January 18, 2008; Excerpts from Soules' Navy Official Military
7 Personnel File received August 19, 2009 from the Department of the Navy;
8 and Letter from the Bureau to Soules, dated September 3, 2013, with
9 attachment;

10 (e) Letter from the Commission to Soules, dated June 29, 2009;

11 (f) Letter from the Commission to Soules, dated July 14, 2009;

12 (g) Letter from the Commission to Soules, dated February 22, 2010;

13 (h) Letter from the Commission to Soules, dated May 13, 2010;

14 (i) Letter from the Commission to Soules, dated June 3, 2010;

15 (j) Letter from the Commission to Soules and the Bureau, dated April 7, 2014;

16 and

17 (k) Letter from the Commission to Soules and the Bureau, dated April 10, 2014.

18 12. Soules made false and misleading representations to the Bureau pertaining to his 2004
19 court martial and discharge from the United States Navy as follows:

20 a. Soules affirmatively declared under penalty of perjury on his Application that
21 he had received a "general" discharge from the Navy. Soules' official
22 Certificate of Release or Discharge from Active duty, United States
23 Department of Defense form DD-214 (DD-214) revealed that Soules received
24 an "other than honorable" discharge from the Navy. Soules' official DD-214
25 indicates that he received a copy of the DD-214 at the time of his separation
26 from the Navy.

27 b. Soules affirmatively declared under penalty of perjury on his Application that
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1 he was charged with "unauthorized absence" in his court martial. When asked
2 by the Bureau to further explain the circumstances surrounding his court
3 martial and discharge from the Navy, Soules stated that he had been absent
4 without leave from his military duty in order to care for his pregnant girlfriend.
5 Soules' official military records revealed that at his court martial, Soules pled
6 guilty to charges of drug use and multiple unauthorized absences while
7 underway at sea.

8 c. Soules affirmatively declared under penalty of perjury on his Application that
9 his rank upon separation from the military was E-5, a non-commissioned
10 officer. Soules' official military records revealed that as part of his court
11 martial sentence, his rank was reduced to the lowest enlisted rank, E-1.

12 13. The matter was submitted for Commission consideration on April 30, 2014.

13 LEGAL CONCLUSIONS

14 1. Every key employee shall apply for and obtain a key employee license. Business and
15 Professions Code section 19854(a).

16 2. No person may be issued a key employee license unless the person would qualify for a
17 state gambling license. Business and Professions Code section 19854(b).

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

20 4. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
21 and 19871 and Title 4, CCR section 12050(b)(2), the burden of proof rests with the applicant to
22 demonstrate why a license should be issued. Title 4, CCR section 12050(b)(3).

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

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

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

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

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

15 10. The Commission has the power to deny any application for a license, permit, or
16 approval for any cause deemed reasonable by the Commission. Business and Professions Code
17 section 19824(b).

18 11. 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 12. The commission shall deny a license to any applicant who is disqualified for the
22 failure of the applicant to clearly establish eligibility and qualification in accordance with this
23 chapter. Business and Professions Code section 19859(a).

24 13. As set forth in the Factual Findings, Soules made false and misleading representations
25 to the Bureau pertaining to his 2004 court martial and discharge from the United States Navy.

26 14. Making false and misleading representations to the Bureau pertaining to a court
27 martial and discharge from the United States Navy reflects a lack of honesty, integrity and good
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1 character.

2 15. As a result of having made several false and misleading representations on his
3 Application and to the Bureau, Soules has failed to demonstrate that he is a person of good
4 character, honesty and integrity pursuant to Business and Professions Code section 19857(a).

5 16. Soules did not attend the Prehearing Conference or administrative hearing
6 despite receiving adequate notice for both and did not make any type of oral or written request
7 prior to the hearing to excuse his absence at the hearing or request a continuance.

8 17. As a result, Soules failed to meet his burden of proving that he is qualified for a state
9 gambling license or key employee license pursuant to Business and Professions Code sections
10 19854(b) and 19859(a).

11 NOTICE OF APPLICANT'S APPEAL RIGHTS

12 Soules has the following appeal rights available under state law:

13 Title 4, CCR section 12050, subsection (c)(6) provides, in part:

14 An applicant denied a license, permit, registration, or finding of suitability, or whose
15 license, permit, registration, or finding of suitability has had conditions imposed
16 upon it may request reconsideration by the Commission within 30 days of notice of
17 the decision. The request shall be in writing and shall outline the reasons for the
18 request, which must be based upon either newly discovered evidence or legal
19 authorities that could not reasonably have been presented before the Commission's
20 issuance of the decision or at the hearing on the matter, or upon other good cause for
21 which the Commission in its discretion decides merits reconsideration.

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

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

Title 4, California Code of Regulations (CCR) section 12050, subsection (d) provides:

An appeal of a denial or imposition of conditions by the Commission shall be
subject to judicial review under Code of Civil Procedure section 1085 (pursuant to
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.

ORDER

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2 1. Adam Soules' Application for a Gambling Establishment Key Employee License is
3 DENIED.

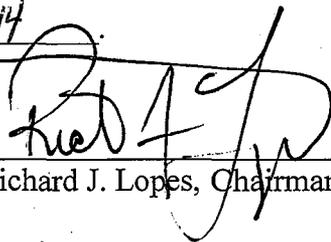
4 2. Adam Soules may not reapply for a key employee license for one (1) year following
5 the effective date of this Order.

6 3. No costs are to be awarded.

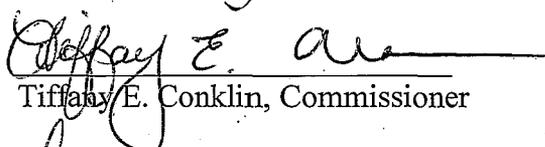
7 4. Each side to pay its own attorneys' fees.

8 This Order is effective on June 9, 2014.

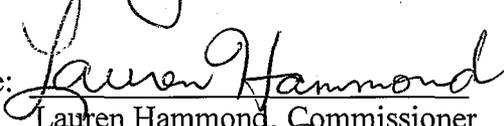
9 Dated: 5/8/2014

Signature: 
Richard J. Lopes, Chairman

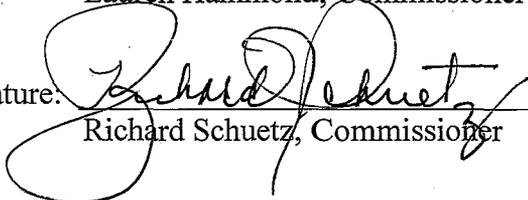
11 Dated: 5/8/2014

Signature: 
Tiffany E. Conklin, Commissioner

13 Dated: 5/8/2014

Signature: 
Lauren Hammond, Commissioner

15 Dated: 5/8/2014

Signature: 
Richard Schuetz, Commissioner