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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for a Key Employee License Regarding:

DARREN FURTADO

Respondent.

BGC Case No. BGC-HQ2013-00005AC
CGCC Case No. CGCC-2013-0523-2

DECISION AND ORDER

Hearing Date: March 8, 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 March 8, 2016.

William Torngren, 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 Darren Furtado (Respondent) at the hearing.

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

- (a) Notice of Hearing and Prehearing Conference;
- (b) Conclusion of Prehearing Conference notice;
- (c) Bureau's Statement of Particulars;
- (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 Particulars and Statement to Applicant, filed and served by the Bureau, Bates Nos. 001-0019;
- (2) Notices from the Commission: (a) June 20, 2013 letter from Tina Littleton

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providing notice that Respondent’s application was referred to an evidentiary hearing; (b) April, 9, 2015 Notice of Hearing and Prehearing Conference; (c) August 20, 2015, Notice of Continuance of Hearing; (d) September 29, 2015, Notice of Continuance of Hearing and Prehearing Conference; (e) California Gambling Control Commission Meeting Minutes dated May 23, 2013, Bates Nos. 0020-0040;

- (3) Notification of Change in Key Employee Employment Status dated May 13, 2013, Bates No. 0041;
- (4) Application for Gambling Establishment Key Employee License for Darren M. Furtado dated May 2, 2013, Bates Nos. 0042-0043;
- (5) Bureau of Gambling Control letter dated April 25, 2013, re Notification of Investigative Renewal Report, Bates No. 0044;
- (6) Bureau’s Cardroom Key Employee Renewal Background Investigation Report dated April 18, 2013, Bates Nos. 0045-0047
- (7) Bureau’s Opening Investigation Report dated April 11, 2013, Bates Nos. 0048-0053;
- (8) Bureau’s Closing Investigation Report dated April 11, 2013, Bates Nos. 0054-0059;
- (9) Application for Gambling Establishment Key Employee License signed January 18, 2013, Bates Nos. 0060-0061;
- (10) Application for Gambling Establishment Key Employee License signed January 3, 2011, Bates Nos. 0062-0063;
- (11) San Jose Police Incident Report dated September 23, 2010, Bates Nos. 0064-0105;
- (12) Commission Staff Summary Recommendation dated May 28, 2009, Bates No. 0106;
- (13) Bureau’s Background Investigation Report dated April 16, 2009, Bates

- 1 Nos. 0107-0110;
- 2 (14) Application for Gambling Establishment Key Employee License received
- 3 October 23, 2008, Bates Nos. 0111-0112;
- 4 (15) Supplemental Background Investigation Information dated September 10,
- 5 2008, Bates Nos. 0113-0132;
- 6 (16) Bureau's Closing Investigation Report dated October 10, 2013, Bates Nos.
- 7 0133-0134;
- 8 (17) Bureau's Closing Investigation Report dated December 10, 2013, Bates
- 9 Nos. 0135-0156.

10 After the administrative hearing, but before the close of evidence, Presiding Officer Jason

11 Pope accepted into evidence the following exhibits offered by Respondent:

- 12 (A) Declaration of Darren Furtado in Support of his Key Employee License
- 13 Renewal;
- 14 (B) Declaration of Jarhett Blonien in Support of Darren Furtado's Key
- 15 Employee License Renewal.

16 The matter was submitted on March 17, 2016.

17 FINDINGS OF FACT

- 18 1. Respondent currently works as the Director of Security at Hollywood Park Casino, a
- 19 key employee position that requires him to hold a valid Gambling Establishment Key Employee
- 20 License.
- 21 2. Beginning in 2007, Respondent was the Assistant Director of Security for Imperium
- 22 Security Specialists, LLC (Imperium). Respondent's father, Harold Furtado, was the owner and
- 23 Director of Security at Imperium.
- 24 3. Respondent was first issued a key employee license in May 2009 after Imperium
- 25 contracted with Garden City Casino (Garden City) in San Jose to provide the casino with
- 26 surveillance and security services.
- 27 4. On January 24, 2013, the Commission received Respondent's application to renew his
- 28

1 key employee license.

2 5. The Bureau, as part of the background investigation for Respondent's renewal
3 application, contacted the San Jose Police Department, Division of Gaming Control (San Jose
4 Division), and verified that Respondent held a temporary key employee license, which expired on
5 May 31, 2013.

6 6. The San Jose Division notified the Bureau that it made a recommendation to the San
7 Jose City Attorney's Office that Respondent's temporary key employee license be revoked. The
8 recommendation was based on an investigation finding that Respondent provided the San Jose
9 Division with an altered estimate for the purchase of new surveillance equipment for Garden City.

10 7. Respondent notified the Commission that he accepted employment at Hollywood Park
11 Casino in Inglewood beginning on March 3, 2013.

12 8. At its May 23, 2013 meeting, the Commission referred the question of Respondent's
13 suitability for licensure renewal to an evidentiary hearing.

14 9. On June 20, 2013, the Commission's Executive Director referred the matter to hearing
15 pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, Section 12060,
16 subdivision (b).

17 10. On February 25, 2015, after CCR title 4, Section 12052, went into effect, Respondent
18 was provided, and accorded the opportunity to submit, copies of the notice of defense form
19 necessary to show his desire to have an evidentiary hearing. On February 27, 2015, Applicant
20 signed a Notice of Defense form and turned it into the Commission.

21 11. The Commission heard Case No. CGCC-2013-0523-2 on March 8, 2016. The Bureau
22 was represented throughout the pendency of the hearing by Deputy Attorney General William
23 Torngren. Respondent was represented by Jarhett Blonien.

24 12. At the hearing, evidence was presented that in 2010 the clarity of several surveillance
25 cameras at Garden City did not meet the City of San Jose's Minimum Internal Control Standards.
26 Garden City was given until October 19, 2010 to bring its surveillance equipment into
27 compliance.
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1 13. On September 22, 2010, Eric Swallow, the owner of Garden City, entered into an
2 agreement to purchase the new surveillance equipment from Surveillance Systems Integration
3 (SSI) for an estimated total of \$58,615.71.

4 14. On September 23, 2010, at 9:06 am, Mr. Swallow sent an email to the City of San
5 Jose, City Manager's Office, to which he attached a Proposal and Statement of Work from SSI.
6 The Proposal and Statement of Work from SSI included an Appendix A, Hardware Costs, which
7 contained estimate number 102738, dated September 20, 2010, for \$358,615.71 (hereinafter
8 referred to as "Altered Proposal").

9 15. On September 23, 2010, at 11:20 am, Mr. Swallow emailed the Altered Proposal to
10 Respondent with instructions to send it to the San Jose Division.

11 16. On September 24, 2010 at 9:29 a.m., Respondent sent an email to the San Jose
12 Division which included the Altered Proposal as an attachment.

13 17. On September 30, 2010, the San Jose Division also received an email from Garden
14 City's Chief Financial Officer containing a copy of an executed contract and a Proposal and
15 Statement of Work from SSI, with Appendix A, Hardware Costs, which contained estimate
16 number 102738, dated September 20, 2010, in the amount of \$58,615.71 for the purchase of the
17 new surveillance equipment. The San Jose Division noted the price discrepancy between the
18 documents and initiated an investigation.

19 18. The San Jose Division interviewed Respondent on June 20, 2012. Respondent told
20 investigators that Josh Mendiola, Imperium's IT person, was responsible for the camera upgrade
21 project. Respondent also stated that his father, Harold Furtado, oversaw the camera upgrade
22 project and that Harold Furtado and Josh Mendiola were the only two persons involved in this
23 project.

24 19. During his interview with the San Jose Division, Respondent did not dispute the fact
25 that he forwarded the email including the Altered Proposal as an attachment, and he
26 acknowledged that no one else had access to his email account.

27 20. The San Jose Division interviewed Harold Furtado on July 17, 2012. Mr. Furtado
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1 stated that neither he nor his son had the technical knowledge to oversee the camera upgrade
2 project, but they were both “functionally responsible” for Josh Mendiola. Contrary to
3 Respondent’s prior assertion, Harold Furtado also stated that he played no role in the camera
4 upgrade project, but his son (Respondent) was “involved” in the project.

5 21. The San Jose Division interviewed Josh Mendiola on July 24, 2012. Mr. Mendiola
6 stated that Harold Furtado was his direct supervisor. Mr. Mendiola also stated that after months of
7 research, he independently decided to purchase the surveillance equipment from SSI. Contrary to
8 Respondent’s prior assertions, Mr. Mendiola stated that he kept Respondent apprised of his
9 progress on the project.

10 22. The San Jose Division Incident Report indicates that Respondent was present during a
11 meeting at Garden City with San Jose Division officers on September 23, 2010 where Harold
12 Furtado told officers that Garden City would be spending over \$300,000 on the camera upgrade
13 project. However, when interviewed, Respondent did not recall attending this meeting.

14 23. The San Jose Division investigation concluded that Respondent supplied an altered
15 estimate that overstated the purchase amount of the new surveillance equipment by \$300,000 in
16 an attempt to corroborate his father, Harold Furtado’s, untrue statement on September 23, 2010
17 that Garden City would be spending over \$300,000 on the camera upgrade project.

18 24. The Bureau also initiated an investigation into the San Jose Division’s allegations that
19 Respondent altered the estimate. On February 27, 2013, Bureau Special Agents interviewed
20 Respondent. Respondent denied that he sent the Altered Proposal to the San Jose Division and
21 denied that he altered the document. Respondent admitted that he is the only person with access
22 to his personal email account that was used to send the Altered Proposal.

23 25. The Bureau also interviewed Josh Mendiola on February 27, 2013. Mr. Mendiola
24 stated that he mainly reported to Respondent, Harold Furtado and Scott Hayden. Mr. Mendiola
25 stated that after he received the proposal from SSI, he forwarded it to Eric Swallow and may have
26 also sent it to Respondent and Harold Furtado.

27 26. The Bureau investigation report dated April 18, 2013 noted that Respondent did not
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1 appear to be forthcoming or candid with his answers. He often seemed to be elusive and /or
2 blatantly blocking or divergent with his responses.

3 27. The April 18, 2013 Bureau Report concluded that Respondent was responsible for
4 altering the SSI estimate, which he submitted to the San Jose Division.

5 28. The Bureau prepared a supplemental report dated December 10, 2013. The report
6 states that Bureau investigators met with Harold Furtado on November 26, 2013. Mr. Furtado
7 provided investigators with an email he received from Eric Swallow on September 23, 2010
8 attaching the Altered Proposal. Harold Furtado stated that Mr. Swallow also sent a separate email
9 with the Altered Proposal to Respondent and instructed him to forward it to the San Jose
10 Division.

11 29. On December 10, 2013, Bureau investigators received an email from Respondent,
12 which included messages originally sent to Respondent from Eric Swallow. The first message
13 was sent by Eric Swallow to Respondent on September 23, 2010 at 9:06 am, attaching the Altered
14 Proposal. The second message was sent from Eric Swallow to Respondent on September 23, 2010
15 at 11:20 am instructing Respondent to send the Altered Proposal to the City of San Jose. Neither
16 email indicated that the attached proposal had been altered.

17 30. The Bureau filed its Statement of Particulars on or about January 5, 2016. The
18 Statement discussed the newly discovered evidence suggesting that the Altered Proposal
19 originated from Eric Swallow. In the Statement, the Bureau requested that a hearing be held and
20 the Commission take such action as it may deem appropriate.

21 31. At the Commission hearing, Respondent testified that if Mr. Swallow told him to send
22 the estimate to the City of San Jose, he would have sent it without questioning the accuracy of the
23 document.

24 32. Respondent testified that he did not have an IT background and had not installed or
25 purchased surveillance cameras as of the date he sent the Altered Proposal to the San Jose
26 Division.

27 33. Respondent testified that at the time he sent the email with the Altered Proposal, he
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1 did not have any knowledge of what the cameras at issue cost.

2 34. Respondent testified that he did not recall sending the email with the Altered
3 Proposal, but acknowledged that he must have sent it.

4 35. At the conclusion of the March 8, 2016 hearing, the Commission requested additional
5 evidence regarding the status of the San Jose Division's investigation.

6 36. On April 8, 2016, , Respondent admitted Respondent's Exhibit A, the Declaration of
7 Darren Furtado in Support of his Key Employee License Renewal into evidence without
8 objection. Respondent's February 2013 work permit application for Hollywood Park Casino and
9 copies of Inglewood work permits approved in 2013 and recently renewed and extended until
10 March 4, 2019 were attached to the Declaration.

11 37. In his Declaration, Respondent declares that the Inglewood City Work Permit
12 Application does not include areas to disclose additional information, but he has kept Caren
13 Lawrence of the Inglewood Police Department apprised of the status of his State Key Employee
14 Badge. No communications with Caren Lawrence are included. Neither is a declaration by Ms.
15 Lawrence. Therefore, the Commission gives little weight to this evidence.

16 38. Also on April 8, 2016, Respondent admitted Respondent's Exhibit B, the Declaration
17 of Jarhett Blonien in Support of Darren Furtado's Key Employee License Renewal into evidence,
18 without objection. Attachments to the Declaration contain email correspondence between Mr.
19 Blonien and Troy Murphy of the San Jose Division. Mr. Murphy's email states that during the
20 Bureau's investigation, the San Jose Division issued a Temporary Gaming License to
21 Respondent. The validity of the temporary license was dependent upon the final decision of the
22 Bureau.

23 39. The email correspondence attached to Exhibit B also noted that Respondent
24 terminated his employment with Garden City and his temporary key employee gaming license in
25 San Jose is expired.

26 40. As the Assistant Director of Security, it was Respondent's responsibility to ensure
27 that the new cameras were ordered, installed and met minimum internal control standards. It does
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1 not seem plausible that Respondent was so ignorant of the cost of the cameras that he would not
2 notice a \$300,000 discrepancy in the cost.

3 41. Respondent provided inaccurate and falsified information to gambling regulators
4 without reviewing it first to ensure that the information was accurate. There was no direct
5 evidence in the record that Respondent participated in altering the document or was aware that it
6 was altered.

7 42. Respondent was responsible for overseeing security operations at Garden City and
8 held a high-level key employee position. Respondent knew or should have known that the
9 information he provided to gambling regulators was inaccurate.

10 43. Respondent failed to demonstrate that he is a person of good character, honesty, and
11 integrity. Respondent did not call any character witnesses or introduce other evidence on this
12 point. Further, Respondent did not produce any evidence to contradict statements contained in the
13 Bureau's report and the San Jose Division Incident Report suggesting that Respondent made
14 contradictory, untrue, or elusive statements to investigators.¹

15 44. Before the Commission, Respondent appeared evasive and did not sufficiently accept
16 responsibility for sending the Altered Proposal or explain why he was justified in not reviewing
17 the proposal for accuracy.

18 45. All documentary and testimonial evidence submitted by the parties that is not
19 specifically addressed in this Decision and Order was considered but not used by the Commission
20 in making its determination on Respondent's Application.

21 46. The matter was submitted for Commission consideration on May 17, 2016.

22 LEGAL CONCLUSIONS

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

26 2. Public trust and confidence can only be maintained by strict and comprehensive

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28 ¹ Respondent stipulated to admission of both reports.

1 regulation of all persons, locations, practices, associations, and activities related to the operation
2 of lawful gambling establishments and the manufacture and distribution of permissible gambling
3 equipment. Business and Professions Code section 19801(h).

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

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

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

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

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

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

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

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

6 11. Respondent did not meet his burden of demonstrating that he is a person of honesty
7 and integrity. Therefore, Respondent is not qualified for the issuance of a Key Employee License
8 pursuant to Business and Professions Code section 19857(a).

9 NOTICE OF APPLICANT'S APPEAL RIGHTS

10 Respondent Darren Furtado has the following appeal rights available under state law:

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

12 An applicant denied a license, permit, registration, or finding of suitability, or whose
13 license, permit, registration, or finding of suitability has had conditions, restrictions,
14 or limitations imposed upon it, may request reconsideration by the Commission
15 within 30 calendar days of service of the decision, or before the effective date
16 specified in the decision, whichever is later. The request shall be made in writing to
17 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.

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

19 A decision of the commission denying a license or approval, or imposing any
20 condition or restriction on the grant of a license or approval may be reviewed by
21 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of
22 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.

23 Title 4, CCR section 12066, subsection (c) provides:

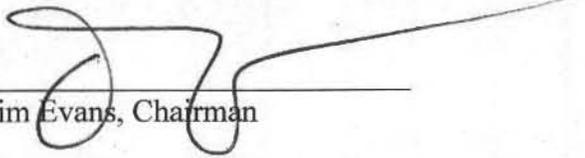
24 A decision of the Commission denying an application or imposing conditions on license
25 shall be subject to judicial review as provided in Business and Professions Code section
26 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
27 filing the petition shall be affected by failure to seek reconsideration.
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ORDER

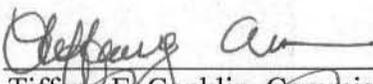
1. Darren Furtado's Application for Key Employee license is DENIED.
2. Each side to pay its own attorneys' fees.

This Order is effective on 6/25/16.

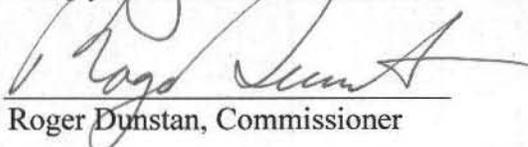
Dated: 6/23/2016

Signature: 
Jim Evans, Chairman

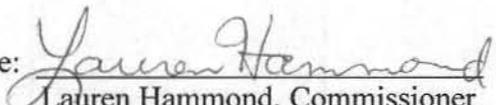
Dated: June 23, 2016

Signature: 
Tiffany E. Conklin, Commissioner

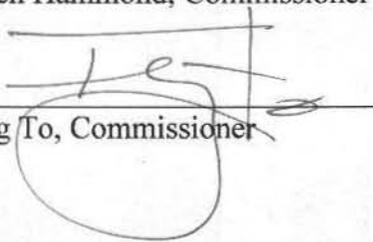
Dated: 6/23/16

Signature: 
Roger Dunstan, Commissioner

Dated: 6/23/2016

Signature: 
Lauren Hammond, Commissioner

Dated: 6/23/16

Signature: 
Trang To, Commissioner

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