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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

JOSEPH BELTRAN

Respondent.

BGC Case No. BGC-HQ2013-00006AL
CGCC Case No. CGCC-2013-0523-1

DECISION AND ORDER

Hearing Date: February 18, 2015
Time: 2:00 p.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 February 18, 2015.

Ronald Diedrich, 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.

Joseph Beltran (Beltran) failed to appear and was not represented at the hearing.

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

- (a) Notice of Hearing and Prehearing Conference, dated November 7, 2014, served by certified mail, return receipt requested.

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;
- (2) Copies of the June 20, 2013 letter from Tina Littleton notifying Elijah Zuniga (designated agent for Joseph Beltran) that the Commission voted to refer consideration of his application to a hearing; November 7, 2014 Notice of Hearing and Prehearing Conference; November 14, 2014 email from Elijah Zuniga stating that he was no longer Beltran's designated

1 agent; January 8, 2015 Conclusion of Prehearing Conference letter; and
2 January 12, 2015 email correspondence between Pamela Mathauser and
3 Deputy attorney General Ronald Diedrich;

- 4 (3) Copy of Beltran's July 20, 2011 Application for Gambling Establishment
5 Key Employee License and Key Employee Supplemental Background
6 Investigation Information form;
- 7 (4) Commission staff's March 7, 2013 and May 23, 2013 Licensing Division
8 Memorandums;
- 9 (5) Unofficial Transcripts of the Commission's March 7, 2013 and May 23,
10 2013 meetings; and
- 11 (6) Copies of the following documents from Club One Casino: (a) January 31,
12 2012 email correspondence involving Kyle Kirkland and Richard Dennis;
13 (b) January 31, 2012 memo to file by Robyn Fox; (c) Acknowledgement
14 signed by Joseph Beltran regarding the terms of his employment at Club
15 One Casino; (d) March 28, 2012 letter from Kyle Kirkland to Frances
16 Asuncion; (e) September 29, 2009 memo to file by Robyn Fox; and (f)
17 September 25, 2009 Incident Report.

18 The matter was submitted on February 18, 2015.

19 FINDINGS OF FACT

- 20 1. Beltran is employed as a floorman, a key employee position, by Bankers Casino, a
21 gambling establishment licensed by the Commission.
- 22 2. On or about May 16, 2011, the Commission received an Application for an Interim
23 Key Employee License from Beltran.
- 24 3. On or about May 17, 2011, the Commission issued an Interim Key Employee License
25 to Beltran.
- 26 4. On or about July 20, 2011, the Commission received an Application for Gambling
27 Establishment Key Employee License (Application) from Beltran.
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1 5. At its May 23, 2013 meeting, the Commission voted to refer the matter of Beltran's
2 Application to an evidentiary hearing.

3 6. On or about June 20, 2013, the Executive Director of the Commission set the
4 matter for an administrative hearing to be conducted pursuant to Business and Professions Code
5 sections 19870 and 19871 and Title 4, CCR section 12050(b)(2).

6 7. On or about October 2, 2014, the Bureau filed a Statement of Reasons with the
7 Commission, with a copy sent to Beltran via certified mail, recommending the denial of Beltran's
8 Application.

9 8. On or about November 7, 2014, the Commission served a Notice of Hearing and
10 Prehearing Conference on Beltran, Elijah Zuniga and the Bureau.

11 9. On or about November 14, 2014, Elijah Zuniga emailed the Bureau and Commission
12 stating that he was no longer the designated agent for Beltran.

13 10. On or about January 7, 2015, the noticed Prehearing Conference was held before
14 Presiding Officer Jason Pope, Attorney III of the Commission. Ronald Diedrich, Deputy
15 Attorney General, attended on behalf of the Bureau. Beltran failed to attend the Prehearing
16 Conference.

17 11. On or about January 8, 2015, the Commission served a Conclusion of Prehearing
18 Conference letter on Beltran and the Bureau.

19 12. The Commission heard Case No. CGCC-2013-0523-1 on February 18, 2015. The
20 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
21 Ronald Diedrich. Beltran failed to appear throughout the pendency of the hearing.

22 13. The failure of an applicant to attend the hearing on his or her application may affect
23 the applicant's ability to apply for and/or receive a work permit, registration or license from the
24 Commission and/or from other jurisdictions.

25 14. On or about January 31, 2012, while on duty at Club One Casino (Club One), a
26 gambling establishment licensed by the Commission, Beltran took \$500 in betting chips from the
27 podium. Beltran used the \$500 in betting chips to gamble at Club One.

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1 15. According to an internal memorandum from Robyn Fox of Club One, dated January
2 31, 2012, Beltran stated that he was playing Blackjack and had to double down on a hand.
3 Beltran “doubled down” using the \$500 in betting chips that he removed from the podium.
4 Beltran also stated that he paid it back immediately.

5 16. The January 31, 2012 internal memorandum from Robyn Fox of Club One appears to
6 be a reliable and credible record of the circumstances surrounding the January 31, 2012 incident
7 involving Beltran’s removal of \$500 in betting chips from the podium at Club One.

8 17. Beltran retained possession of the key to the podium while gambling at Club One.

9 18. By removing \$500 in betting chips from the podium at Club One, and gambling with
10 the \$500 in betting chips while in possession of the key to the podium, Beltran violated the
11 internal controls and integrity of the podium bank at Club One.

12 19. On or about March 7, 2013, during a Commission meeting, Beltran stated that he
13 kept his gambling winnings and tips segregated from Club One’s money and betting chips within
14 the same drawer of the podium at Club One.

15 20. By commingling his personal funds with Club One’s money and betting chips within
16 the same drawer of the podium at Club One, Beltran violated the internal controls and integrity of
17 the podium bank at Club One.

18 21. On or about March 7, 2013, during a Commission meeting, Beltran stated that the
19 \$500 in betting chips he took from the podium at Club One were his personal funds.

20 22. Beltran’s statements in the January 31, 2012 Club One internal memorandum (that he
21 removed the betting chips from the podium but paid it back immediately) and during the March 7,
22 2013 Commission meeting (that the \$500 in betting chips he took from the podium at Club One
23 were his personal funds) are contradictory.

24 23. Regardless of which of the contradictory statements is truthful, as a result of Beltran’s
25 conflicting statements regarding the character of the funds he removed from the podium in Club
26 One, Beltran has failed to demonstrate that he is a person of good character, honesty and integrity.

27 24. Beltran’s violations of the internal controls and integrity of the podium bank at Club
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1 One are prior activities that pose a threat to the effective regulation and control of controlled
2 gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods,
3 and activities in the conduct of controlled gambling or in the carrying on of the business and
4 financial arrangements incidental thereto.

5 25. Failing to attend the hearing, Beltran did not present or submit any information or
6 evidence in favor of granting his Application.

7 26. The matter was submitted for Commission consideration on February 18, 2015.

8 LEGAL CONCLUSIONS

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

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

16 29. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
17 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to
18 prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,
19 CCR section 12060(i).

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

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

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

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

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

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

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

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

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

26 39. Beltran has not met his burden of proving that he is a person of good character,
27 honesty, and integrity. Therefore, Beltran is unqualified for licensure pursuant to Business and
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1 Professions Code section 19857(a).

2 40. Beltran's prior activities pose a threat to the effective regulation and control of
3 controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices,
4 methods, and activities in the conduct of controlled gambling or in the carrying on of the business
5 and financial arrangements incidental thereto. As a result, Beltran is unqualified for licensure
6 pursuant to Business and Professions Code section 19857(b).

7 NOTICE OF APPLICANT'S APPEAL RIGHTS

8 Beltran has the following appeal rights available under state law:

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

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

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

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

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

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

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2 1. Joseph Beltran's Application for a Gambling Establishment Key Employee License is
3 DENIED.¹

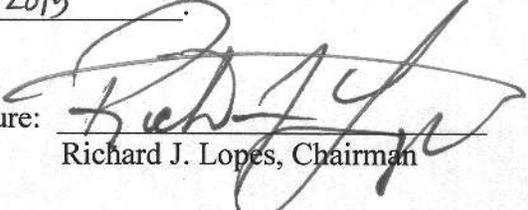
4 2. No costs are to be awarded.

5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on April 13, 2015.

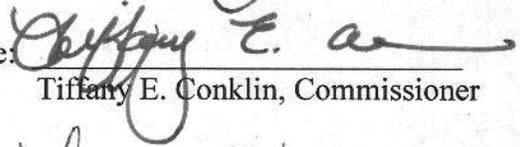
7 Dated: 3/12/2015

8 Signature:


Richard J. Lopes, Chairman

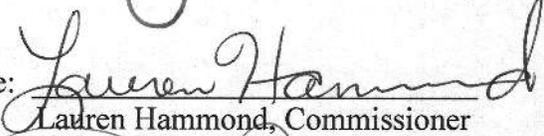
9 Dated: March 12, 2015

10 Signature:


Tiffany E. Conklin, Commissioner

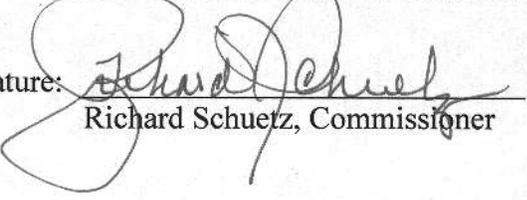
11 Dated: 3-12-15

12 Signature:


Lauren Hammond, Commissioner

13 Dated: 3/12/2015

14 Signature:


Richard Schuetz, Commissioner

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26 ¹ Beltran's Interim Key Employee License expired on May 31, 2013, but the expiration was stayed pending
27 the resolution of this matter. As a result of this Decision and Order, the stay on Beltran's expired Interim Key
28 Employee License has terminated. Further, pursuant to Title 4, CCR section 12354(d), upon the denial of a regular
key employee license by the Commission, the interim license previously issued shall become invalid and shall not be
used thereafter.