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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

JOHN SU'A

Respondent.

BGC Case No. BGC-HQ2013-00003SL
CGCC Case No. CGCC-2013-1030-7B

DECISION AND ORDER

Hearing Date: February 18, 2015
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 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.

John Su'A (Su'A) 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 October 31, 2013 letter from Marianne Estes notifying Su'A that the Commission voted to refer consideration of his application to a hearing; November 7, 2014 Notice of Hearing and Prehearing Conference; and January 8, 2015 Conclusion of Prehearing Conference letter;
- (3) Copy of Su'A's October 6, 2011 Application for Gambling Establishment

1 Key Employee License and Key Employee Supplemental Background
2 Investigation Information form;

- 3 (4) Certified copy of the court order, Su'A's filed Factual Basis for Guilty
4 Plea, and the court's Minutes regarding Su'A's conviction, upon a guilty
5 plea, of two counts of violating Revenue and Taxation Code, section
6 19706, willful failure to file or make a fraudulent tax return, in the case of
7 *People v. Su'A* (Super. Ct. Orange County, 2012, No. 12NF3312);
8 (5) Copy of the Felony Complaint Warrant in the case of *People v. Su'A*
9 (Super. Ct. Orange County, 2012, No. 12NF3312);
10 (6) Redacted copy of the Franchise Tax Board's Investigation Report that was
11 filed with the court in the case of *People v. Su'A* (Super. Ct. Orange
12 County, 2012, No. 12NF3312);
13 (7) October 16, 2012 Declaration in Support of Arrest Warrant made Under
14 2015.5 CCP, by Special Agent Robert Hammond;
15 (8) November 28, 2012 and June 4, 2013 faxed statements by Su'A;
16 (9) Installment Agreement – Electronic Funds Transfer, Notice Date 11/28/12;
17 and
18 (10) October 16, 2013 California Gambling Control Commission staff's
19 Licensing Division Memorandum.

20 The matter was submitted on February 18, 2015.

21 FINDINGS OF FACT

- 22 1. Su'A is employed as a supervisor in the security department of the Commerce Hotel &
23 Casino, a gambling establishment licensed by the Commission.
24 2. On or about October 6, 2011, the Commission received an Application for Gambling
25 Establishment Key Employee License (Application) from Su'A.
26 3. On or about October 17, 2011, Su'A submitted an Application for Interim Key
27 Employee License to the Commission.
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1 4. The Commission granted an Interim Key Employee License, license number GEKE-
2 001722, to Su'A.

3 5. At its October 30, 2013 meeting, the Commission voted to refer the matter of Su'A's
4 Application to an evidentiary hearing.

5 6. On or about October 31, 2013, the Executive Director of the Commission set the
6 matter for an administrative hearing to be conducted pursuant to Business and Professions Code
7 sections 19870 and 19871 and Title 4, CCR section 12050(b)(2).

8 7. On or about September 30, 2014, the Bureau filed a Statement of Reasons with the
9 Commission, with a copy sent to Su'A via certified mail, recommending the denial of Su'A's
10 Application.

11 8. On or about November 7, 2014, the Commission served a Notice of Hearing and
12 Prehearing Conference on Su'A and the Bureau.

13 9. 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. Su'A failed to attend the Prehearing
16 Conference.

17 10. On or about January 8, 2015, the Commission served a Conclusion of Prehearing
18 Conference letter on Su'A and the Bureau.

19 11. The Commission heard Case No. CGCC-2013-1030-7B on February 18, 2015. The
20 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
21 Ronald Diedrich. Su'A failed to appear throughout the pendency of the hearing or make any
22 contact with the Commission or the Bureau.

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

26 13. On or about August 26, 2013, Su'A was convicted, upon a plea of guilty, of two
27 counts of violating California Revenue and Taxation Code section 19706, willful failure to file
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1 any return or supply any information with intent to evade any tax, both misdemeanors, in the case
2 *People v. Su'A* (Super. Ct. Orange County, 2012, No. 12NF3312). Su'A was sentenced to 150
3 days in jail and three years of informal probation, and ordered to pay restitution.

4 14. On or about August 26, 2013, Su'A signed the following Factual Basis for Guilty Plea
5 in the case *People v. Su'A* (Super. Ct. Orange County, 2012, No. 12NF3312):

6 "In Orange County, California, on October 15, 2010 and October 15, 2011 on two
7 separate occasions, in violation of California Revenue and Taxation Code Section
8 19706, a misdemeanor, did willfully, unlawfully, and knowingly fail to file a return
9 and supply information for the taxable years 2009 and 2010, with the intent to evade a
10 tax imposed by Part 10 (commencing with section 17001), or Part 11 (commencing
11 with Section 23001) of the Revenue and Taxation Code, and with like intent, willfully
12 make, render, sign, and verify a false or fraudulent return or statement, and supply
13 false or fraudulent information."

14 15. The Factual Basis for Guilty Plea is a reliable and accurate record regarding the
15 circumstances surrounding Su'A's criminal convictions for violating California Revenue and
16 Taxation Code section 19706.

17 16. Su'A's two criminal convictions, which occurred on or about August 26, 2013, took
18 place following the submission of his Application, which occurred on or about October 6, 2011.

19 17. Su'A has not been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of
20 the California Penal Code from his two misdemeanor convictions of violating California Revenue
21 and Taxation Code section 19706.

22 18. A violation of California Revenue and Taxation Code section 19706 is a crime
23 involving dishonesty.

24 19. A violation of California Revenue and Taxation Code section 19706 is a crime
25 involving moral turpitude.

26 20. Su'A two counts of violating California Revenue and Taxation Code section 19706
27 are both misdemeanors involving dishonesty and moral turpitude.

28 21. As a result of his recent criminal history, Su'A has failed to demonstrate that he is a
person of good character, honesty and integrity.

22. Given his past criminal behavior, Su'A has failed to demonstrate that his criminal
record does not pose a threat to the public interest of the State of California.

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

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

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

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

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

22 37. The Commission shall deny a license to any applicant who is disqualified by
23 conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within
24 the 10-year period immediately preceding the submission of the application, unless the applicant
25 has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code;
26 provided, however, that the granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of
27 the Penal Code shall not constitute a limitation on the discretion of the commission under Section
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1 19856 or affect the applicant's burden under Section 19857. Business and Professions Code
2 section 19859(d).

3 38. Business and Professions Code section 19859(d) applies to any applicant who has
4 been convicted of a misdemeanor involving dishonesty or moral turpitude following the
5 submission of his or her application, unless the applicant has been granted relief pursuant to
6 Section 1203.4, 1203.4a, or 1203.45 of the Penal Code; provided, however, that the granting of
7 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a
8 limitation on the discretion of the commission under Section 19856 or affect the applicant's
9 burden under Section 19857.

10 39. Su'A has been convicted of two counts of violating California Revenue and Taxation
11 Code section 19706, both misdemeanors involving dishonesty and moral turpitude. Therefore,
12 Su'A is disqualified from licensure pursuant to Business and Professions Code section 19859(d).

13 40. Su'A has not met his burden of proving that he is a person of good character, honesty,
14 and integrity. Therefore, Su'A is unqualified for licensure pursuant to Business and Professions
15 Code section 19857(a).

16 41. Su'A's criminal record poses a threat to the public interest of the State of California.
17 As a result, Su'A is unqualified for licensure pursuant to Business and Professions Code section
18 19857(b).

19 NOTICE OF APPLICANT'S APPEAL RIGHTS

20 Su'A has the following appeal rights available under state law:

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

22 An applicant denied a license, permit, registration, or finding of suitability, or whose
23 license, permit, registration, or finding of suitability has had conditions, restrictions,
24 or limitations imposed upon it, may request reconsideration by the Commission
25 within 30 calendar days of service of the decision, or before the effective date
26 specified in the decision, whichever is later. The request shall be made in writing to
27 the Commission, copied to the Bureau, and shall state the reasons for the request,
28 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.

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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.

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 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. John Su'A's Application for a Gambling Establishment Key Employee License is
3 DENIED.

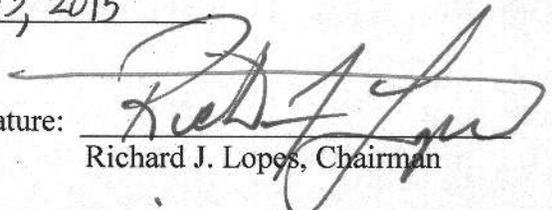
4 2. John Su'A's Interim Key Employee License, license number GEKE-001722, shall
5 become invalid upon the effective date of this Order.¹

6 3. No costs are to be awarded.

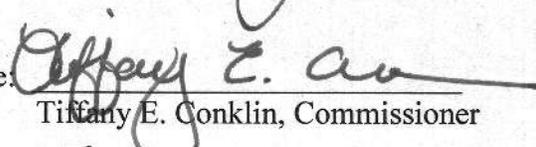
7 4. Each side to pay its own attorneys' fees.

8 This Order is effective on April 13, 2015

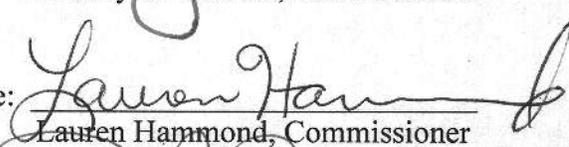
9 Dated: 3/12/2015

10 Signature: 
Richard J. Lopes, Chairman

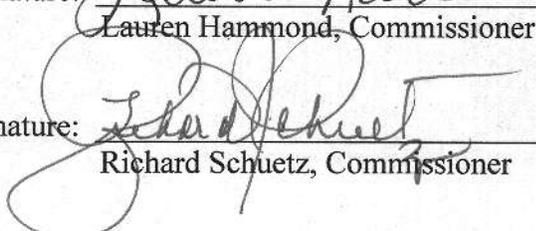
11 Dated: March 12, 2015

12 Signature: 
Tiffany E. Conklin, Commissioner

13 Dated: 3-12-15

14 Signature: 
Lauren Hammond, Commissioner

15 Dated: 3/12/2015

16 Signature: 
Richard Schuetz, Commissioner

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27 ¹ Pursuant to Title 4, CCR section 12354(d), upon the denial of a regular key employee license by the
28 Commission, the interim license previously issued shall become invalid and shall not be used thereafter.