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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons:

Richard Douglas Sharrah, Jr.

Respondent.

BGC Case No. BGC-HQ2014-00014SL
CGCC Case No. CGCC-2014-0828-7C

DECISION AND ORDER

Hearing Date: October 30, 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 October 30, 2015.

Timothy M. Muscat (Muscat), 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.

Respondent Richard Douglas Sharrah, Jr. (Sharrah) failed to appear and was not represented at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing and Prehearing Conference, with enclosures, sent by the Commission to Sharrah and Muscat on May 1, 2015.

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

- (1) Copies of the Statement to Respondent, Statement of Reasons, Certificate of Service by Certified Mail, Certified Mail envelope returned unclaimed, and completed Notice of Defense, Bates Nos. 0001-0021;
- (2) Copies of the following Notices from the Gambling Commission:
 - a. Notice of Hearing and Prehearing Conference dated May 1, 2015;
 - b. Conclusion of Prehearing Conference dated September 15, 2015;

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- c. Notice of Cancellation of Interim Portable License letter dated August 11, 2014;
 - d. Commission letter for Notification of scheduled Commission Meeting dated August 14, 2014; and
 - e. Commission Memorandum for Initial Portable Personal Key Employee License dated August 28, 2014, Bates Nos. 0022-0050;
- (3) California Department of Justice, Bureau of Gambling Control Cardroom Key Employee Background Investigation Report, Level III, Richard Douglas Sharrah, Jr., Bankers Casino, dated July 2014, Bates Nos. 0051-0064;
 - (4) Fresno County Superior Criminal Conviction Records for Case Nos. F98908759-4 and F02907732-2, Bates Nos. 0065-0084;
 - (5) Additional Information request letter from Jeanine Velasquez, Bureau of Gambling Control, dated April 12, 2014, Bates Nos. 0085-0086;
 - (6) Response to Additional Information request letter from Designated Agent Elijah Zuniga regarding Richard Sharrah dated April 30, 2014, Bates Nos. 0087-0095;
 - (7) Superior Court of Monterey case information details, Bates Nos. 0096-0102;
 - (8) Additional Information request letter from Jeanine Velasquez, Bureau of Gambling Control, dated March 27, 2014, Bates Nos. 0103-0108;
 - (9) Credit Report for Richard Sharrah dated March 13, 2014, Bates Nos. 0109-0120;
 - (10) Application for Key Employee License dated December 17, 2012, Bates Nos. 0121-0122;
 - (11) Supplemental Background Investigation information dated November 5, 2012, Bates Nos. 0123-0136;

- 1 (12) Application for Interim Key Employee License dated July 30, 2012;
2 Application for Gambling Establishment Key Employee License dated
3 November 28, 2012; and Application for Gambling Establishment Key
4 Employee License dated December 20, 2012, Bates Nos. 0137-0141;
- 5 (13) Memorandum from BGC Licensing to Lisa Rowell, Staff Services
6 Manager, California Gambling Control Commission, regarding unlawful
7 detainer action against Richard Sharrah dated September 21, 2010 with
8 attachments, Bates Nos. 0142-0153;
- 9 (14) Superior Court of California, County of Monterey, Case Number M123799
10 Court documents, Bates Nos. 0154-0165;
- 11 (15) Superior Court of California, County of Monterey, Case Number M121474
12 Court documents, Bates Nos. 0166-0172;
- 13 (16) Superior Court of California, County of Fresno, Case Number 08CE CL-
14 01183 Court documents, Bates Nos. 0173-0238;
- 15 (17) Santa Clara County Superior Court Criminal Conviction Records for Case
16 No. F1035189, Bates Nos. 0239-0246;
- 17 (18) U.S. Bankruptcy Court Eastern District of California, Fresno Division re
18 Discharge of Debtor documents in re Case No. 04-10492-A-7, Bates Nos.
19 0247-0283;
- 20 (19) Deed Records/Information re Richard D. Sharrah, Jr., Bates Nos. 0284-
21 0306;
- 22 (20) California Gambling Control Commission letter dated October 17, 2011, to
23 Richard Sharrah from Kelly Schmidt re Request for Written Update and
24 submission of the names of creditors, balances due, payments made, by
25 November 11, 2011, Bates Nos. 0307-0310; and
- 26 (21) Richard Sharrah, Jr., Chase Bank Statements from 2011-2012, Bates Nos.
27 0311-0374.
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1 The matter was submitted on October 30, 2015.

2 FINDINGS OF FACT

3 1. On or about August 2, 2012, Sharrah submitted an Application for Interim Key
4 Employee License to the Commission.

5 2. On or about August 22, 2012, the Commission granted Sharrah an Interim Key
6 Employee License.

7 3. On or about December 17, 2012, Sharrah submitted an Application for Gambling
8 Establishment Key Employee License (Application) to the Commission.

9 4. On or about July 16, 2014, the Bureau submitted its Cardroom Key Employee
10 Background Investigation Report on Sharrah to the Commission. In its Background Investigation
11 Report, the Bureau recommends the denial of Sharrah's Application.

12 5. On or about August 11, 2014, the Commission cancelled Sharrah's Interim Key
13 Employee License pursuant to CCR section 12354(e)(5).

14 6. At its August 28, 2014 meeting, the Commission voted to refer the matter of Sharrah's
15 Application to an evidentiary hearing. The Executive Director of the Commission referred
16 consideration of Sharrah's Application to an evidentiary hearing pursuant to CCR section
17 12050(b)(2).

18 7. On or about March 8, 2015, Sharrah submitted a Notice of Defense to the Commission
19 requesting an evidentiary hearing on the consideration of his Application.

20 8. On or about May 1, 2015, the Commission served a Notice of Hearing and Prehearing
21 Conference on Sharrah and Muscat.

22 9. On or about August 26, 2015, the Bureau filed a Statement of Reasons with the
23 Commission and served the Statement of Reasons on Sharrah via certified mail. In its Statement
24 of Reasons, the Bureau recommends the denial of Sharrah's Application.

25 10. On or about September 10, 2015, the noticed Prehearing Conference was held before
26 Presiding Officer Jason Pope, Attorney III of the Commission. Timothy M. Muscat, Deputy
27 Attorney General, attended on behalf of the Bureau. Sharrah failed to attend and was not
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1 represented at the Prehearing Conference.

2 11. On or about September 15, 2015, the Commission served a Conclusion of Prehearing
3 Conference letter on Sharrah and Muscat.

4 12. The Commission heard Case No. CGCC-2014-0828-7C on October 30, 2015. The
5 Bureau was represented throughout the hearing by Deputy Attorney General Timothy M. Muscat.
6 Respondent Richard Douglas Sharrah, Jr. failed to appear and was not represented at the hearing.

7 13. On or about July 16, 2003, Sharrah was convicted of violating California Insurance
8 Code section 1871.4(a)(1), making a false worker's compensation claim, a felony, in the case of
9 *People v. Richard Sharrah* (Super. Ct. Fresno County, No. F02907732-2). Sharrah was sentenced
10 to 180 days in jail, five years of probation, and ordered to pay restitution to the Fresno Unified
11 School District in the amount of \$38,706.24.

12 14. All documentary and testimonial evidence submitted by the parties that is not
13 specifically addressed in this Decision and Order was considered but not used by the Commission
14 in making its determination on Sharrah's Application.

15 15. The matter was submitted for Commission consideration on October 30, 2015.

16 LEGAL CONCLUSIONS

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

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

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

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

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

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

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

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

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

18 25. 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 26. No gambling license shall be issued unless, based on all of the information and
22 documents submitted, the commission is satisfied that the applicant is a person whose prior
23 activities and criminal record, if any, reputation, habits, and associations do not pose a threat to
24 the public interest of this state, or to the effective regulation and control of controlled gambling,
25 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
26 in the conduct of controlled gambling or in the carrying on of the business and financial
27 arrangements incidental thereto. Business and Professions Code section 19857(b).

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1 27. No gambling license shall be issued unless, based on all of the information and
2 documents submitted, the commission is satisfied that the applicant is a person that is in all other
3 respects qualified to be licensed as provided in this chapter. Business and Professions Code
4 section 19857(c).

5 28. The Commission shall deny a license to any applicant who is disqualified for
6 conviction of a felony, including a conviction by a federal court or a court in another state for a
7 crime that would constitute a felony if committed in California. Business and Professions Code
8 section 19859(c).

9 29. An application for a portable personal key employee license shall be denied by the
10 Commission if the Commission finds that the applicant is ineligible, unqualified, disqualified, or
11 unsuitable pursuant to the criteria set forth in the Act or other applicable law, or that granting the
12 license would be inimical to public health, safety, welfare, or would undermine the public trust
13 that the gambling operations are free from criminal or dishonest elements. CCR section
14 12355(a)(1).

15 30. Sharrah has been convicted of a felony. Therefore, Sharrah is disqualified from the
16 issuance of a Gambling Establishment Key Employee License pursuant to Business and
17 Professions Code sections 19854(b) and 19859(c), and CCR section 12355(a)(1).

18 NOTICE OF APPLICANT'S APPEAL RIGHTS

19 Sharrah has the following appeal rights available under state law:

20 CCR section 12064, subsections (a) and (b) provide, in part:

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

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

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

6 CCR section 12066, subsection (c) provides:

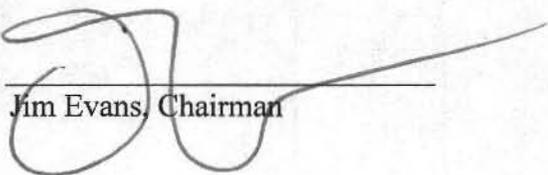
7 A decision of the Commission denying an application or imposing conditions on license
8 shall be subject to judicial review as provided in Business and Professions Code section
9 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
10 filing the petition shall be affected by failure to seek reconsideration.

10 ORDER

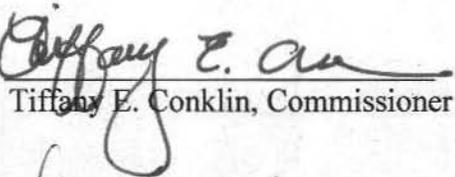
- 11 1. Richard Douglas Sharrah, Jr.'s Application for Gambling Establishment Key
12 Employee License is DENIED.
13 2. No costs are to be awarded.
14 3. Each side to pay its own attorneys' fees.

15 This Order is effective on December 13, 2015.

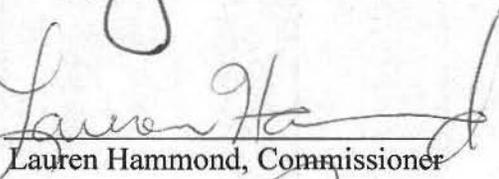
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17 Dated: 11/17/15

17 Signature: 
18 Jim Evans, Chairman

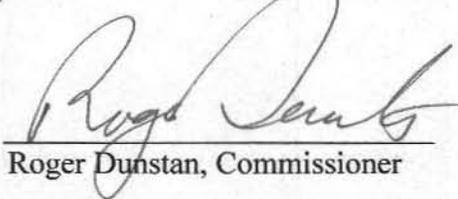
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20 Dated: Nov. 17, 2015

20 Signature: 
21 Tiffany E. Conklin, Commissioner

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23 Dated: 11/17/2015

23 Signature: 
24 Lauren Hammond, Commissioner

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26 Dated: 11/17/2015

26 Signature: 
27 Roger Dunstan, Commissioner

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