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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Gambling
Establishment Key Employee License:

ROBERT HENRY EZZELL

Respondent.

BGC Case No. BGC-HQ2017-00003
CGCC Case No. CGCC-2017-1207-5D

DECISION AND ORDER

Hearing Date: October 26, 2018
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, in Sacramento, California, on October 26, 2018.

Paras Modha, Deputy Attorney General, State of California (DAG Modha), represented complainant Stephanie Shimazu, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Respondent Robert Ezzell (Ezzell) did not attend the evidentiary hearing.

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing, with enclosures, sent by the Commission to Ezzell and DAG Modha, via certified mail, on March 7, 2018. Presiding Officer Jason Pope also took official notice of the Commission's Conclusion of Prehearing Conference letter, the Bureau's Statement of Reasons, and Ezzell's signed Notice of Defense.

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

- (1) Letter to Robert Ezzell dated 8/8/2018 forwarding Statement to Respondent; Statement of Reasons dated 8/3/2018; CGCC Notice of Hearing, without attachments, dated 3/7/18; Copy of Bus. & Prof. Code, §§ 19870 & 19871; Copy of Cal. Code. Regs., tit. 4, § 12060; Certificate of Service by Certified Mail dated 8/8/2018; Notice of Defense, signed

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12/16/2017; CGCC Notice of Hearing, with attachments, dated 3/7/2018, Bates Nos. 001-088;

- (2) Application for Gambling Establishment Key Employee License dated 6/10/2014; Key Employee Supplemental Background Investigation Information dated 6/10/2014, Bates Nos. 089-105;
- (3) BGC Cardroom Key Employee Background Investigation Report, Level III, Robert Henry Ezzell, Paso Robles Central Coast Casino, with attachments, dated October 2017, Bates Nos. 106-152;
- (4) BGC letter to CGCC Request for Withdrawal of Application for Robert Henry Ezzell dated 8/30/2017; E-mail re reasons for withdrawal, Bates Nos. 153-157;
- (5) CGCC Licensing Division Memorandum, dated 10/19/2017 without attachment; CGCC Letter to Robert Ezzell re withdraw of key employee license dated 10/20/2017; CGCC Licensing Division Memorandum, dated 12/7/2017 without attachments; CGCC Referral of Initial Key Employee License Application to an Evidentiary Hearing, dated 12/11/2017, Bates Nos. 158-168;
- (6) BGC communications and requests for additional information with Robert Ezzell and his representative, and responses; BGC letter of recommendation for denial dated 8/1/2017; BGC letter of notification of investigative report dated 10/24/2017, Bates Nos. 169-262;
- (7) Criminal records and tax liens of Robert Ezzell, Bates Nos. 263-314;
- (8) BGC Investigation Report, No. BGC-LA2018-00010, Opening Report, Report No. 1, with attachments, dated 4/16/2018; Letters of support for Robert Ezzell from Councilman Jim Reed and Mayor Steve Martin; Transcripts of meeting with BGC and Jim Reed and Steve Martin; CD with recording of meetings with Councilman Reed and Mayor Martin, Bates

1 Nos. 315-344 and CD; and

2 (9) Withdrawal Requests, Bates Nos. 345-351.

3 The record was closed and the matter was submitted on October 26, 2018.

4 FINDINGS OF FACT

5 **Procedural History**

6 1. On or about June 17, 2014, the Bureau received an Application for Gambling
7 Establishment Key Employee License and Key Employee Supplemental Background Information
8 form (Supplemental) (collectively, Application) from Ezzell.

9 2. On or about October 24, 2017, the Bureau submitted a Cardroom Key Employee
10 Background Investigation Report on Ezzell, with attachments, to the Commission. In this report,
11 the Bureau recommends that the Commission deny Ezzell's Application.

12 3. At its December 7, 2017 meeting, the Commission voted to refer the consideration of
13 Ezzell's Application to a Gambling Control Act evidentiary hearing.

14 4. On or about December 16, 2017, Ezzell submitted a signed Notice of Defense to the
15 Commission requesting an evidentiary hearing on the consideration of his Application.

16 5. On or about March 7, 2018, the Commission sent a Notice of Hearing, via certified
17 mail, to Ezzell, his attorney Donald Ezzell, and DAG Modha.

18 6. On or about August 8, 2018, the Bureau sent a Statement of Reasons via certified mail
19 to Ezzell and his attorney Donald Ezzell. In the Statement of Reasons, the Bureau recommends
20 that the Commission deny Ezzell's Application.

21 7. On or about September 5, 2018, the noticed Prehearing Conference was held before
22 Presiding Officer Jason Pope, Attorney III of the Commission. Deputy Attorney General Colin
23 Wood attended on behalf of the Bureau in place of DAG Modha. Attorney Donald Ezzell
24 appeared on behalf of Ezzell, who also attended.

25 8. On or about September 6, 2018, the Commission sent a Conclusion of Prehearing
26 Conference letter to attorney Donald Ezzell and DAG Modha.

27 9. The Commission heard this matter on October 26, 2018. The Bureau was represented
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1 throughout the hearing by DAG Modha. Respondent Ezzell did not attend the evidentiary hearing.

2 **Ezzell's Employment History in Controlled Gambling**

3 10. Ezzell has been employed as a floor manager, a key employee position, at Paso Robles
4 Central Coast Casino, a licensed gambling establishment located in Paso Robles, California, from
5 November 2011 to the present while his Application was being processed. Ezzell's duties include
6 overseeing floor operations and introducing new dealers to house rules and regulations.

7 11. There was no evidence presented during the evidentiary hearing that Ezzell has had
8 any employment-related issues while working at Paso Robles Central Coast Casino.

9 **Ezzell's Criminal History**

10 12. On or about September 28, 1977, Ezzell was convicted of violating California Penal
11 Code section 484, theft of personal property, a misdemeanor, in the case of *People v. Robert*
12 *Ezzell* (Mun. Ct., Bellflower Judicial Dist., L.A. County, 1977, Case No. M73440). Ezzell was
13 sentenced to 24 months of probation and ordered to pay a fine. Ezzell disclosed this conviction on
14 his Application.

15 13. On or about August 31, 1988, Ezzell was convicted of violating California Vehicle
16 Code section 23152(b), driving with .08 percent or more, by weight, of alcohol, a misdemeanor,
17 in the case of *People v. Robert Ezzell* (Super. Ct. Santa Clara County, 1988, Case No. A8844014).
18 This conviction was set aside and dismissed pursuant to California Penal Code section 1203.4 on
19 or about June 29, 2004. Ezzell failed to disclose this conviction on his Application.

20 14. On or about January 17, 1992, Ezzell was convicted of violating California Vehicle
21 Code section 23152(b), driving with .08 percent or more, by weight, of alcohol, a misdemeanor,
22 in the case of *People v. Robert Ezzell* (Super. Ct. Santa Clara County, 1992, Case No. C9276325).
23 This conviction was set aside and dismissed pursuant to California Penal Code section 1203.4 on
24 or about January 7, 2004. Ezzell failed to disclose this conviction on his Application.

25 15. On or about October 16, 2006, Ezzell was convicted of violating California Vehicle
26 Code section 12500(a), driving without a driver's license, a misdemeanor, in the case of *People v.*
27 *Robert Ezzell Liv* (Super. Ct. Sonoma County, 2006, Case No. SCR490768). Ezzell was
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1 sentenced to 12 months of probation and 15 days in jail, and ordered to pay a fine. Ezzell failed to
2 disclose this conviction on his Application.

3 **Ezzell's Application**

4 16. Applications for licensure by the Commission are submitted on forms furnished by the
5 Bureau. An applicant for licensing shall make full and true disclosure of all information to the
6 Bureau and Commission as necessary to carry out the policies of this state relating to licensing,
7 registration, and control of gambling.

8 17. An application consists of two parts. The first part is two pages and consists of five
9 sections, including instructions, applicant information, and job title/description. The first page
10 instructs the applicant to "please read the following paragraphs carefully before you complete this
11 form." The application's instructions also provide that "any misrepresentation or failure to
12 disclose information required on this application may constitute sufficient cause for denial or
13 revocation."

14 18. The second part of an application is the Supplemental, which consists of 14 pages. The
15 Supplemental contains 12 sections and requires that the applicant disclose, among other things,
16 employment history, criminal record, litigation and arbitration history, and personal financial
17 history.

18 19. The Bureau relies, in large part, on the applicant's disclosures while conducting a
19 background investigation. The failure to honestly and accurately disclose information on an
20 application subverts the Bureau's efforts to conduct a thorough and complete investigation.

21 20. Both the substance of an applicant's disclosures, and the truthfulness and
22 thoroughness of an applicant's disclosures, are considered by the Bureau in making a
23 recommendation as to the applicant's suitability for licensure, and by the Commission in making
24 a determination whether to approve or disprove a license application.

25 21. The last section of the Supplemental is a Declaration, to be signed by the applicant
26 under the penalty of perjury, that the statements contained therein are true, accurate and complete.
27 Ezzell signed the Declaration on June 10, 2014.

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1 22. One question on the Supplemental asks the applicant “Have you ever been convicted
2 of a crime or pled guilty, or pled nolo contendere (no contest) to a crime? Include any convictions
3 reduced or expunged, **unless** the records have been sealed pursuant to a court order. (Do not
4 include vehicle code infractions).” (Emphasis in original.) Ezzell checked the box marked “Yes”
5 to this question and disclosed his 1977 theft conviction. However, Ezzell failed to disclose his
6 other three convictions: (1) driving under the influence of alcohol (DUI) in 1988; (2) DUI in
7 1992; and (3) driving without a driver’s license in 2006.

8 23. Regarding his failure to disclose the two DUI convictions, Ezzell wrote to the Bureau
9 “Both of these convictions were for driving under the influence. I did not disclose these
10 convictions on my supplemental form if that is what is being alleged because after I satisfied all
11 court requirements for these offenses by paying all fines etc. After I fulfilled all of the
12 requirements I went back to court and the Judge granted me full expungement as I had complied
13 with all requirements and was no longer on probation. It was my understanding that this erased
14 those events from a criminal record so would not require detailed disclosure in the future. It was
15 not my intention to deceive the DOJ, I didn’t think they were still relevant due to the efforts I
16 went through to have them expunged from my record.”

17 24. Regarding his failure to disclose his driving without a driver’s license conviction,
18 Ezzell wrote to the Bureau “This was a citation for driving on a suspended license while I still
19 had one class left to complete in the drinking driver program to re-obtain my driver’s license. I
20 completed the course and had my license reinstated before my required court appearance. When I
21 went to the court I provided proof of my reinstated and valid license and it was dispensed and I
22 was charged no fine. That was the end of it as far as I am aware.”

23 **Ezzell’s Responses to the Bureau’s Requests for Information**

24 25. The Bureau requested additional and clarifying information from Ezzell on several
25 occasions to complete its background investigation.

26 26. Although Ezzell responded sufficiently to some of the Bureau’s requests for additional
27 and clarifying information, Ezzell failed to provide the following information in response to the
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1 Bureau's requests:

- 2 a. Information related to the payment or satisfaction of the \$409.21 in
3 outstanding debt that Ezzell owes to the State of California Board of
4 Equalization;
- 5 b. Information related to the payment or satisfaction of the following outstanding
6 debts in collections for health care services received by Ezzell:
- 7 i. \$3,453.08 owed to Action Professionals, Inc. for services provided by
8 San Luis Ambulance Service;
- 9 ii. \$1,108.49 owed to Action Professionals, Inc. for services provided by
10 Central Coast Radiology Medical Group; and
- 11 iii. \$10,800 owed to Central Financial Control for services provided by
12 Twin Cities Hospital; and
- 13 c. Information related to the payment or satisfaction of the fines incurred by
14 Ezzell related to his driving without a driver's license conviction in 2006.

15 27. Ezzell also delayed in providing the details of his theft conviction in 1977 by failing to
16 adequately respond to the Bureau's July 20, 2016 and August 4, 2016 requests for additional
17 information.¹ In response to the Bureau's July 20, 2016 request, Ezzell wrote that he "paid fine."
18 In response to the Bureau's August 4, 2016 request, Ezzell wrote "I have attached a copy of my
19 current DMV printout showing that my license is valid and that all fines have been paid." Only in
20 response to the Bureau's October 27, 2016 request did Ezzell adequately explain the factual
21 circumstances surrounding his 1977 theft conviction.

22 **Ezzell's Letters of Reference**

23 28. While his Application was pending disposition before the Commission, Ezzell
24 requested that Jim Reed, City Council Member of Paso Robles (Councilman Reed), and Steven
25 W. Martin, Mayor of El Paso de Robles (Mayor Martin), write letters of reference in support of
26 his Application and send the letters directly to the Commission.

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28 ¹ The Bureau requested that Ezzell "explain the circumstances that led to your conviction."

1 29. Councilman Reed submitted a letter of reference in support of Ezzell's Application to
2 the Commission on or about October 26, 2017. Councilman Reed stated that Ezzell told him to
3 send the letter to the Commission and provided an envelope addressed to the Commission.

4 30. Mayor Martin submitted a letter of reference in support of Ezzell's Application to the
5 Commission on or about November 13, 2017. Mayor Martin could not recall if Ezzell provided
6 the mailing address, but he stated that Ezzell did not provide an envelope addressed to the
7 Commission.

8 31. The letters from Councilman Reed and Mayor Martin were not submitted to the
9 Bureau; rather, they were addressed and sent directly to the Commissioners.

10 **Assessment of Ezzell's Suitability for Licensure**

11 *Failure to Meet Burden of Proving Qualifications for Licensure*

12 32. The burden of proving his or her qualifications to receive any license is on the
13 applicant. Ezzell did not attend the evidentiary hearing or submit any information or evidence in
14 support of his Application. As a result of Ezzell's lack of attendance and participation in the
15 evidentiary hearing, and his failure to submit any information or evidence in support of his
16 application, Ezzell has failed to meet his burden of proving his qualifications for licensure.

17 *Failure to Provide Information Required by the Gambling Control Act and the Bureau*

18 33. A request for licensure by the Commission is triggered by the submission of an
19 application. The Application's instructions provide that "any misrepresentation or failure to
20 disclose information required on this application may constitute sufficient cause for denial or
21 revocation." On June 10, 2014, Ezzell signed the Application's Declaration under penalty of
22 perjury. By signing the Declaration, Ezzell declared the statements contained therein are true,
23 accurate and complete. Ezzell's Application required him to disclose his criminal history, which
24 includes four misdemeanor convictions. However, Ezzell failed to disclose three of the four
25 convictions. As a result, Ezzell has failed to provide complete information required by the
26 Gambling Control Act and requested by the Bureau.

27 34. Ezzell's excuses for failing to disclose three of his four convictions fail to convince.
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1 Regarding the two DUI convictions, Ezzell wrote to the Bureau that the convictions were erased
2 from his criminal record and no longer needed to be disclosed because his convictions were
3 expunged. Ezzell is incorrect. The convictions remain a part of his criminal history. Also, the
4 question on the Application specifically requires the applicant to disclose “any convictions
5 reduced or expunged, **unless** the records have been sealed pursuant to a court order.” (Emphasis
6 in original.) Ezzell’s convictions were set aside and dismissed, but were not sealed pursuant to a
7 court order. As a result, Ezzell was required to disclose his two DUI convictions.

8 35. Regarding the driving without a driver’s license conviction, Ezzell wrote to the Bureau
9 that when he went to the court he provided proof of his reinstated and valid driver’s license and
10 “that was the end of it as far as I am aware.” Ezzell is incorrect. The conviction remains a part of
11 his criminal history and Ezzell was required to disclose it. Overall, Ezzell fails to provide any
12 explanation sufficient to excuse his failure to disclose three of his four criminal convictions on his
13 Application.

14 36. Ezzell also failed to provide information requested by the Bureau during its
15 background investigation. As provided above, Ezzell failed to provide information related to the
16 payment or satisfaction of: (1) his outstanding debts to the State of California Board of
17 Equalization; (2) his outstanding debts to various collection agencies for health care services
18 received by Ezzell; and (3) the fines incurred by Ezzell related to his driving without a driver’s
19 license conviction in 2006. Ezzell also delayed for months in providing the details of his 1977
20 theft conviction. As a result, Ezzell has failed to provide information requested by the Bureau.

21 *Ezzell’s Letters of Reference Were Improper Ex Parte Communications*

22 37. “*Ex Parte*” means a communication upon the merits of an application without
23 notice and opportunity for all parties to participate in the communication.²

24 38. While his Application was pending disposition before the Commission, Ezzell
25 requested that Councilman Reed and Mayor Martin write letters of reference in support of his
26 Application and send the letters directly to the Commission. Both Councilman Reed and Mayor

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28 ² Business and Professions Code section 19872(e) and 4 CCR section 12012(a).

1 Martin sent letters addressing the merits of Ezzell's Application directly to the Commissioners.
2 No copy of the letters were sent to the Bureau. These letters were improper *ex parte*
3 communications because they were provided without notice and opportunity for the Bureau to
4 participate in the communication. Ezzell communicated *ex parte* through direct or indirect means
5 through his request and the resulting submission of letters of reference from Councilman Reed
6 and Mayor directly to the Commissioners regarding the merits of Ezzell's Application. There was
7 no evidence presented during the evidentiary hearing to excuse Ezzell's solicitation of, and
8 participation in, these prohibited *ex parte* communications.

9 39. All documentary and testimonial evidence submitted by the parties that is not
10 specifically addressed in this Decision and Order was considered but not used by the Commission
11 in making its determination on Ezzell's Application.

12 40. The matter was submitted for Commission consideration on October 26, 2018.

13 LEGAL CONCLUSIONS

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

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

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

25 44. An "unqualified person" means a person who is found to be unqualified pursuant to
26 the criteria set forth in Section 19857, and "disqualified person" means a person who is found to
27 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code
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1 section 19823(b).

2 45. The Commission has the power to deny any application for a license, permit, or
3 approval for any cause deemed reasonable by the Commission. Business and Professions Code
4 section 19824(b).

5 46. The Commission has the power to take actions deemed to be reasonable to ensure that
6 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled
7 gambling activities. Business and Professions Code section 19824(d).

8 47. Every key employee shall apply for and obtain a key employee license. Business and
9 Professions Code section 19854(a).

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

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

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

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

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

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

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

7 55. The Commission shall deny a license to any applicant who is disqualified for failure of
8 the applicant to clearly establish eligibility and qualification in accordance with this chapter.
9 Business and Professions Code section 19859(a).

10 56. The Commission shall deny a license to any applicant who is disqualified for failure of
11 the applicant to provide information, documentation, and assurances required by this chapter or
12 requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the
13 supplying of information that is untrue or misleading as to a material fact pertaining to the
14 qualification criteria. Business and Professions Code section 19859(b).

15 57. Application for a state license or other commission action shall be submitted to the
16 department on forms furnished by the department. Business and Professions Code section
17 19864(a).

18 58. The department shall furnish to the applicant supplemental forms, which the applicant
19 shall complete and file with the department. These supplemental forms shall require, but shall not
20 be limited to requiring, complete information and details with respect to the applicant's personal
21 history, habits, character, criminal record, business activities, financial affairs, and business
22 associates, covering at least a 10-year period immediately preceding the date of filing of the
23 application. Business and Professions Code section 19865.

24 59. An applicant for licensing or for any approval or consent required by this chapter,
25 shall make full and true disclosure of all information to the department and the commission as
26 necessary to carry out the policies of this state relating to licensing, registration, and control of
27 gambling. Business and Professions Code section 19866.

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1 60. No employee or agent of the department, applicant, or any agent, representative, or
2 person acting on behalf of an applicant, and no person who has a direct or indirect interest in the
3 outcome of a proceeding to consider an application for a license, permit, registration, or approval
4 may communicate *ex parte*, directly or indirectly, with any member of the commission, upon the
5 merits of the application, while the application is pending disposition before the commission.
6 Business and Professions Code section 19872(c).

7 61. The receipt by a member of the commission of an *ex parte* communication prohibited
8 by this section may provide the basis for disqualification of that member or the denial of the
9 application. Business and Professions Code section 19872(d).

10 62. The limitations on *ex parte* communications imposed by Business and Professions
11 Code sections 19872, subdivisions (a) and (c) shall apply when the Bureau report is issued to the
12 Commission until a decision is final pursuant to Section 12066 and the communication is upon
13 the merits of the application. CCR section 12012(c).

14 63. If an applicant, the Bureau or other interested person or an advocate of the
15 Commission, if one has been designated, communicates directly or indirectly on an *ex parte* basis
16 with a member of the Commission, including indirectly through submission of information or
17 documentation to an advisor of the Commission, then that communication, if by the applicant,
18 may be used as a basis for denial of the application pursuant to Business and Professions Code
19 sections 19856, 19857 and subdivision (d) of section 19872. CCR section 12012(f)(2).

20 64. A Commission decision is final upon the effective date specified in the decision or 30
21 calendar days after service of the decision if no effective date is specified, and if reconsideration
22 under Section 12064 has not been requested. CCR section 12066(b)(1).

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

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1 66. An application for a key employee license may be denied if the Commission finds that
2 an applicant has attempted to communicate or has communicated *ex parte*, as that term is defined
3 in Business and Professions Code section 19872, subdivision (e), with one or more
4 Commissioners, through direct or indirect means, regarding the merits of the application while the
5 application is pending disposition at the Bureau or the Commission. CCR section 12355(b)(1).

6 67. Ezzell did not attend the evidentiary hearing or submit any information or
7 evidence in favor of granting his Application. As a result, Ezzell did not meet his burden of
8 proving his qualifications to receive a key employee license pursuant to Business and Professions
9 Code section 19856(a) and CCR sections 12060(i) and 12355(a)(1). By failing to clearly establish
10 his qualifications to receive a key employee license, Ezzell is also disqualified from licensure
11 pursuant to Business and Professions Code section 19859(a).

12 68. Ezzell failed to disclose three of his four criminal convictions on his Application and
13 failed to provide any explanation sufficient to excuse his failure to disclose these convictions. As
14 a result, Ezzell failed to provide information, documentation and assurances required by the
15 Gambling Control Act and requested by the Bureau. Therefore, Ezzell is disqualified from
16 receiving a key employee license pursuant to Business and Professions Code section 19859(b)
17 and CCR section 12355(a)(1).

18 69. Ezzell failed to provide information requested by the Bureau during its background
19 investigation related to the payment or satisfaction of various outstanding debts and fines. Ezzell
20 also delayed for months in providing details to the Bureau regarding portions of his criminal
21 history. As a result, Ezzell has failed to provide information, documentation and assurances
22 requested by the Bureau. Therefore, Ezzell is disqualified from receiving a key employee license
23 pursuant to Business and Professions Code section 19859(b) and CCR section 12355(a)(1).

24 70. Ezzell requested that two character witnesses send letters of reference in support of his
25 Application directly to the Commissioners, without a copy being provided to the Bureau, while
26 his Application was pending disposition at the Commission. These letters were improper *ex parte*
27 communications. As a result, Ezzell has communicated *ex parte* through his solicitation and the
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1 resulting submission of letters of reference from Councilman Reed and Mayor directly to the
2 Commissioners regarding the merits of his Application. Therefore, Ezzell's Application is subject
3 to denial pursuant to Business and Professions Code section 19872(d) and CCR section
4 12012(f)(2).

5 NOTICE OF APPLICANT'S APPEAL RIGHTS

6 Respondent Robert Henry Ezzell has the following appeal rights available under state law:
7 CCR section 12064, subsections (a) and (b) provide, in part:

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

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

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

28 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. Respondent Robert Henry Ezzell's Application for Gambling Establishment Key
3 Employee License is DENIED.

4 2. No costs are to be awarded.

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

6 This Order is effective on December 31, 2018.

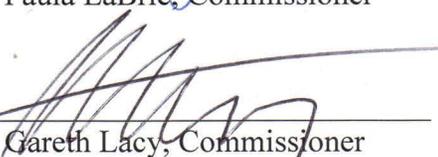
7 Dated: 11/29/18

Signature: 
Jim Evans, Chairman

9 Dated: 11/29/18

Signature: 
Paula LaBrie, Commissioner

11 Dated: 11/29/18

Signature: 
Gareth Lacy, Commissioner

13 Dated: 11/29/18

Signature: 
Trang To, Commissioner

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