

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

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

DANNY LIV  
Respondent.

BGC Case No. BGC-HQ-2018-00003SL  
CGCC Case No. CGCC-2017-1207-5F

**RECONSIDERED DECISION AND  
ORDER**

Hearing Date: July 19, 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(b), in Sacramento, California, on July 19, 2018.

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

Rajbeer Moroak, Esq., Jester & Moroak, LLP, represented Danny Liv (Respondent) at the hearing.

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the following: (1) Notice of Hearing with attachments; (2) the Bureau's Statement of Reasons; (3) Respondent's signed Notice of Defense; and (4) the Commission's Conclusion of Prehearing Conference letter.

During the administrative hearing on July 19, 2018, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

1) Statement to Respondent, Statement of Reasons, California Gambling Control Commission letter dated March 9, 2018, re: Notice of Hearing and Prehearing Conference; Excerpts of the California Business and Professions Code and the California Code of Regulations; and Declaration of Service by Certified Mail, Bates Nos. 0001-0024;

2) Notice of Defense, signed and dated January 2, 2018, Bates Nos. 0025-0026;

- 1           3) The Bureau's Cardroom Key Employee Background Investigation Report, Level III,  
2           October 2017, Bates Nos. 0027-0038;
- 3           4) Respondent's Application for Interim Key Employee License dated May 19, 2016 and  
4           Supplemental Background Investigation Information dated May 31, 2016, Bates Nos. 0039-0055;
- 5           5) Information Furnished Pursuant to Fingerprint Submission to the Department of Justice  
6           and Federal Bureau of Investigation Results, Bates Nos. 0056-0059;
- 7           6) Employment Verification with Black Oak Casino Resort dated October 6, 2017, Bates  
8           Nos. 0060-0064;
- 9           7) Employment Verification with Parkwest Casino 580 dated March 14, 2017, Bates Nos.  
10          0065;
- 11          8) Employment Verification with Tuolumne Me-Wuk Tribal Gaming Agency dated  
12          March 14, 2017, Bates Nos. 0066-0068;
- 13          9) Employment Verification with MCI Telecommunications dated March 14, 2017, Bates  
14          Nos. 0069-0071;
- 15          10) Gambling License Work Permit Verification with the Livermore Police Department  
16          dated March 14, 2017, Bates Nos. 0072;
- 17          11) Tuolumne County Superior Court documents, Bates Nos. 0073-0097;
- 18          12) Stanislaus County Superior Court documents, Bates Nos. 0098-0102;
- 19          13) Correspondence from California Department of Highway Patrol dated March 21,  
20          2017, Bates Nos. 0103;
- 21          14) United States Eastern District Bankruptcy Court documents, Case No. 08- 90378-D-7,  
22          Bates Nos. 0104-0153;
- 23          15) Gambling Control Commission letter dated May 26, 2016 re: Interim Personal  
24          Portable Key Employee License, Bates Nos.0154-0155;
- 25          16) Correspondence from the Bureau to Respondent re: Additional Information and/or  
26          Documentation Required dated March 21, 2017, Bates No. 0156-0162;
- 27          17) Correspondence from the Bureau to Respondent re: Additional Information and/or  
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1 Documentation Required dated April 4, 2017, Bates Nos. 0163-0180;

2 18) Correspondence from the Bureau to Respondent re: Receipt of Application for  
3 Gambling Establishment Key Employee License and Supplemental Information dated April 18,  
4 2017, Bates Nos. 0181-0182;

5 19) Correspondence from the Bureau to Respondent re: Recommendation for Denial of  
6 Application for a Cardroom Key Employee License dated October 5, 2017, Bates Nos. 0183-185;

7 20) Correspondence from the Bureau to Respondent re: Notification of Investigation  
8 Report dated October 25, 2017, Bates Nos. 0186;

9 21) Correspondence from the Commission to Respondent re: Notice of Cancellation of  
10 Interim Portable Personal Key Employee License dated November 16, 2017, Bates Nos. 0187-  
11 0189;

12 22) Commission Minutes of December 7, 2017 and Commission Meeting and MP3  
13 Audio, Bates Nos. 0190-0205;

14 23) Stanislaus County Superior Court Case No. 1408874, Sentencing Minute Order dated  
15 05/28/2010 re: 23152(a) and (b), Bates Nos. 0206-0207.

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

18 A) Letter of recommendation from Joseph Lopez, Bates Nos. 04;

19 B) Letter of recommendation from Peter Buqeileh, Bates Nos. 07;

20 C) Letter of recommendation from David Hoang, Bates Nos. 10;

21 D) Letter of recommendation from Jose Ayala, Bates Nos. 13;

22 E) Letter of recommendation from Monk at the Buddhist Temple Respondent attends,  
23 Bates No. 16;

24 F) Black Oak Casino: Memo indicating eligibility for rehire, Bates Nos. 19;

25 G) Tuolumne County: Documentation of successful completion of court orders and  
26 payment of fines, Bates Nos. 22-25;

27 H) Notice of Completion of DUI program, payment of fines and community service hours,  
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1 Bates Nos. 28-30;

2 J<sup>1</sup>) Record of consistent Child Support payments, Bates Nos. 33.

3 The matter was submitted on July 19, 2018. The Commission issued a Decision and  
4 Order on September 6, 2018, denying Respondent's Application. The Decision and Order had an  
5 effective date of October 8, 2018.

6 On October 4, 2018, Respondent timely submitted a written Request for Reconsideration  
7 of the Commission's September 6, 2018 Decision and Order. The Commission's Executive  
8 Director determined that the Request for Reconsideration was complete and placed the request on  
9 the Commission's November 1, 2018 meeting agenda, which stayed the effective date of the  
10 decision pending the outcome of the request. On November 1, 2018, The Commission granted  
11 Respondent's Request for Reconsideration without accepting new evidence or further hearing.  
12 The Commission issues the following Reconsidered Decision and Order.

13 FINDINGS OF FACT

14 1. On May 23, 2016, the Bureau received an interim key employee license application  
15 from Respondent. On May 26, 2016, the Commission issued an interim key employee license,  
16 number GEKE-002205, to Respondent with an expiration date of May 31, 2018. The interim  
17 license allowed Respondent to work as a key employee at Parkwest Casino 580, a licensed  
18 gambling establishment in Livermore, California, while his application for an initial key  
19 employee license was pending.

20 2. On or about June 2, 2016, the Bureau received an Application for Gambling  
21 Establishment Key Employee License and a Key Employee Supplemental Background  
22 Investigation Information form with attachments, dated May 31, 2016 (collectively, Application),  
23 from Respondent.

24 3. On his Application, Respondent stated, under penalty of perjury, that he had never been  
25 convicted of a crime.

26 4. On his Application, Respondent stated, under penalty of perjury, that he had not been a

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28 <sup>1</sup> There was no exhibit I.



1 party to a foreclosure within the last 10 years.

2 5. On his Application, Respondent disclosed that he previously worked at Black Oak  
3 Casino. Respondent wrote, "no reliable transportation" as his reason for leaving Black Oak Casino.

4 6. In the course of the Bureau's personal and criminal history background investigation, it  
5 was determined that on or about May 28, 2010, Respondent was convicted of violating Vehicle  
6 Code section 23152, subdivision (b), driving under the influence of alcohol, a misdemeanor, in  
7 the case of *People v. Danny Liv* (Super. Ct. Stanislaus County, 2010, No. 1408874).

8 7. In the course of the Bureau's personal and criminal history background investigation, it  
9 was determined that on or about February 16, 2011, Respondent was convicted of violating  
10 Vehicle Code section 14601.5, subdivision (a), driving without a valid driver's license with  
11 knowledge of suspension or revocation of the driver's license, a misdemeanor, in the case of  
12 *People v. Danny Liv* (Super. Ct. Tuolumne County, 2011, No. CRM34426).

13 8. In the course of the Bureau's personal and criminal history background investigation, it  
14 was determined that on or about April 7, 2011, Respondent was convicted of violating Vehicle  
15 Code section 14601.2, subdivision (a), driving while license suspended for DUI, a misdemeanor,  
16 in the case of *People v. Danny Liv* (Super. Ct. Tuolumne County, 2011, No. CRM34748).

17 9. In the course of the Bureau's personal and criminal history background investigation, it  
18 was also determined that a property owned by Respondent was foreclosed on in 2008.

19 10. On March 21, 2017, a Manager in the Bureau's Cardroom Licensing Section requested  
20 additional information from Respondent regarding the convictions and the foreclosure.

21 11. Respondent replied to the Bureau's inquiry by stating that "I mistakenly forgot to  
22 disclose the foreclosure, it was not intentional." Regarding the convictions, Respondent wrote, "I  
23 mistakenly misunderstood the question and thought they were asking if I had any felonies, it was  
24 not intentional."

25 12. On or about April 17, 2017, a Manager in the Bureau's Cardroom Licensing Section  
26 emailed Respondent to ask why he had not disclosed that he was terminated from the Black Oak  
27 Casino. The same day, Respondent replied, "I thought I did put that I was fired from Black Oak  
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1 Casino if not it was not intentional.”

2 13. On or about October 25, 2017, the Bureau submitted a Cardroom Key Employee  
3 Background Investigation Report to the Commission recommending that Respondent's  
4 Application be denied on the basis that he failed to disclose the three misdemeanor convictions  
5 and the foreclosure.

6 14. On or about November 16, 2017, Respondent's interim key employee license was  
7 cancelled by the Commission pursuant to California Code of Regulations, title 4, section 12354,  
8 subdivision (e)(5).

9 15. On December 20, 2017, the Commission referred consideration of Respondent's  
10 Application to an evidentiary hearing to be held under the provisions of California Code of  
11 Regulations, title 4, section 12060.

12 16. On or about January 8, 2018, The Commission received a Notice of Defense signed  
13 by Respondent requesting an evidentiary hearing.

14 17. On or about May 2, 2018, the Bureau filed a Statement of Reasons with the  
15 Commission requesting denial of Respondent's Application on the basis that he failed to disclose  
16 the three misdemeanor convictions, the foreclosure, and his termination from Black Oak Casino  
17 on his Application.

18 18. The Commission heard Case No. CGCC-2017-1207-5F on July 19, 2018. The  
19 Bureau was represented by Deputy Attorney General Paras Modha and Respondent was  
20 represented by Rajbeer Moroak, Esq.

21 19. Respondent testified that after his conviction for driving under the influence of alcohol  
22 (DUI), his license was suspended. Respondent testified that he understood that his license was  
23 suspended and that he was not supposed to drive, but he continued to drive to and from work  
24 because he was the sole provider for his son.

25 20. Respondent testified that after his DUI conviction, he was pulled over twice while  
26 driving home from work, which resulted in the February and April 2011 convictions for driving  
27 with a suspended license.  
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1           21. Respondent testified that after the April 2011 conviction, he started to carpool and get  
2 rides from his father-in-law as much as possible. Respondent testified that he still drove to work  
3 with a suspended license approximately twice a week.

4           22. Respondent testified that he completed probation and paid the fines required by the  
5 court for his convictions.

6           23. Respondent testified that he did not disclose the three misdemeanor convictions on his  
7 Application because he thought he was only required to disclose felony convictions.

8           24. Section 6 of the Application reads: "Have you ever been convicted of a crime or pled  
9 guilty or pled nolo contendere (no contest) to a crime? Include any convictions reduced or  
10 expunged, unless the records have been sealed pursuant to a court order." Below the question, the  
11 Application asks, "identify crime(s), indicate misdemeanor or felony."

12           25. The plain language on the Application requests information about felonies and  
13 misdemeanors. Respondent did not provide a reasonable explanation for not disclosing his  
14 misdemeanor convictions on the Application.

15           26. Respondent testified regarding his termination from Black Oak Casino. Respondent  
16 testified that on the day at issue, he rode to work with a coworker. Respondent's coworker/ride  
17 had to leave work early due to illness. Respondent lived approximately 65 miles from work, so he  
18 decided to leave early with his co-worker rather than remain at work without a ride home. This  
19 caused Respondent's attendance points to reach a threshold resulting in his termination.

20           27. Respondent testified that he should have been more detailed in describing his  
21 termination. However, Respondent testified that he never claimed that he resigned and his  
22 statement about not having reliable transportation on the Application was a truthful explanation of  
23 the reason that he was terminated.

24           28. Respondent testified that he failed to disclose that he was a party to a foreclosure on  
25 section 10 of the Application because he "forgot." However, in response to a separate question in  
26 section 10, Respondent referenced the foreclosed property when describing the circumstances  
27 leading to his bankruptcy filing. Respondent wrote, that he "lost a lot of money and could not  
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1 keep up with mortgage.”

2 29. Respondent’s testimony that he forgot that he was a party to a foreclosure when he  
3 filled out the Application is not credible given that he referenced the subject property in the same  
4 section of the Application.

5 30. The questions asked on an application for licensure by the Commission have two  
6 primary purposes. The first purpose is to solicit information that is material to the qualification  
7 criteria of an applicant. An applicant’s criminal and financial history are material to the  
8 qualification criteria for a license because they may impact the determination of an applicant’s  
9 general character, integrity, and ability to participate in, engage in, or be associated with,  
10 controlled gambling. An applicant’s criminal and financial history may also impact whether the  
11 applicant poses a threat to the public interest of this state or to the effective regulation and control  
12 of controlled gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal  
13 practices, methods, and activities in the conduct of controlled gambling or in the carrying on of  
14 the business and financial arrangements incidental thereto. The second purpose is to assess the  
15 applicant’s honesty, integrity and candor by the truthfulness and thoroughness of the applicant’s  
16 responses.

17 31. Based on the foregoing, Respondent has failed to meet his burden of proving that he is  
18 a person of good character, honesty, and integrity.

19 32. In failing to disclose three misdemeanor convictions and a foreclosure on his  
20 Application, Respondent has failed to provide information required by the Gambling Control Act  
21 and failed to reveal facts material to the qualification of an applicant for licensure by the  
22 Commission.

23 33. Respondent’s response on his Application regarding his termination from Black Oak  
24 Casino was sufficient and accurate and was not a basis for denial of his Application.

25 34. All documentary and testimonial evidence submitted by the parties that is not  
26 specifically addressed in this Decision and Order was considered but not used by the Commission  
27 in making its determination on Respondent’s Application.



## LEGAL CONCLUSIONS

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

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

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

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

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

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

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

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

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

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

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

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

15           47. Respondent has not met his burden of proving that he is a person of good character,  
16 honesty, and integrity. Therefore, Respondent is unqualified for licensure pursuant to Business  
17 and Professions Code section 19857(a).

18           48. Respondent failed to provide information, documentation, and assurances required by  
19 the Gambling Control Act, failed to reveal facts material to qualification, and supplied  
20 information that is untrue or misleading as to material facts pertaining to the qualification criteria  
21 under the Gambling Control Act. Therefore, Respondent is disqualified from licensure pursuant  
22 to Business and Professions Code section 19859(b).

23           49. Given that Respondent is unqualified for licensure pursuant to Business and  
24 Professions Code section 19857(a) and disqualified from licensure pursuant to Business and  
25 Professions Code section 19859(b), Respondent has failed to clearly establish his eligibility and  
26 qualification for licensure in accordance with the Gambling Control Act. Therefore, Respondent  
27 is disqualified from licensure pursuant to Business and Professions Code section 19859(a).



1 NOTICE OF APPLICANT'S APPEAL RIGHTS

2 Respondent Danny Liv has the following appeal rights available under state law:

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

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

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

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

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

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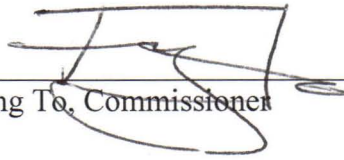
ORDER

1. Danny Liv's Application for Key Employee license is DENIED.
2. The provisions of Subdivision (b) of 4 CCR section 12068 shall not apply to this denial.
3. Each side to pay its own attorneys' fees.

This Order is effective on November 29, 2018.

Dated: 11/29/18 Signature:   
Jim Evans, Chairman

Dated: 11/29/18 Signature:   
Paula LaBrie, Commissioner

Dated: 11-29-18 Signature:   
Trang To, Commissioner