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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2018-1004-4A

In the Matter of the Application for Approval  
of Initial Key Employee License Regarding:

MISTY VARGAS ALONZO

Applicant.

**DECISION AND ORDER**

Hearing Date: Friday, May 31, 2019  
Time: 1:30 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, in Sacramento, California, on Friday, May 31, 2019.

Deputy Attorney General James Waian (Waian), Department of Justice, Attorney General's Office, State of California, represented complainant Stephanie Shimazu, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California (Complainant).

Applicant Misty Vargas Alonzo was present on her own behalf (Applicant).

During the administrative hearing, Presiding Officer Kate Patterson took official notice of the Conclusion of Prehearing Conference Letter, the Complainant's Statement of Reasons, Applicant's signed Notice of Defense, and the Notice of Hearing and Prehearing Conference which enclosed Applicant's Application for Key Employee License and the Bureau's Report.

During the administrative hearing, Presiding Officer Kate Patterson accepted into evidence the following exhibits offered by the Complainant:

- (1) Statement to Respondent; Statement of Reasons; copies of Bus. & Prof. Code §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; and April 12, 2019 Declaration of Service by Overnight Courier, Bates Nos. 0001-0023;
- (2) October 16, 2018 Executed Notice of Defense form for Misty Vargas Alonzo, Bates Nos. 0024-0027;
- (3) Notices and Documents from the California Gambling Control Commission:
  - a. March 1, 2016 Approval of Temporary Work Permit (GEWP-002431

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- for Misty Vargas Alonzo, Bates Nos. 0028-0029;
- b. September 19, 2016 Interim Key Employee License notification for Misty Vargas Alonzo (without enclosure), Bates Nos. 0030-0031;
- c. August 27, 2018 Notice of Cancellation of Interim Portable Personal Key Employee License for Misty Vargas Alonzo (with enclosure), Bates Nos. 0032-0033;
- d. September 21, 2018 Notification of Scheduled Commission Meeting (GEKE-002249) (with enclosure), Bates Nos. 0034-0043;
- e. October 4, 2018 Referral of Gambling Establishment Key Employee License Application to an Evidentiary Hearing - Misty Vargas Alonzo (without enclosure), Bates Nos. 0044-0045;
- f. February 13, 2019 Notice of Hearing for Misty Vargas Alonzo (without enclosures) Returned Service of Document Letter to Sai Fo Saechao on July 27, 2018, Bates Nos. 0046-0048;
- (4) February 10, 2016 Application for Initial Regular Work Permit/Temporary Work Permit for Misty Vargas Alonzo (including Work Permit Questionnaire), Bates Nos. 0049-0057;
- (5) September 15, 2016 Application for Interim Key Employee License for Misty Vargas Alonzo, and September 15, 2016 Application for Key Employee License for Misty Vargas Alonzo (including Supplemental Background Investigation Information form), Bates Nos. 0058-0078;
- (6) August 20, 2018 Bureau of Gambling Control Gambling Establishment Key Employee Initial Background Investigation Report, Level III, for Misty Vargas Alonzo (with attachments), Bates Nos. 0079-0092;
- (7) License history for Misty Vargas Alonzo, Bates Nos. 093-0094;
- (8) October 19, 2018 certification of license history for Misty Vargas Alonzo, Bates Nos. 0095-0096;

- 1 (9) Merced County Superior Court documents regarding February 8, 2016  
2 California Vehicle Code section 23103.5 (“wet reckless”) conviction for  
3 Misty Vargas Alonzo, Bates Nos. 0097-0103;
- 4 (10) Correspondence to, from, and regarding Misty Vargas Alonzo, Bates Nos.  
5 0104-0142;
- 6 (11) October 20, 2015 and February 9, 2016 Letters of Warning to Poker Flats  
7 Casino; Bates Nos. 0143-0148.

8 **FINDINGS OF FACT**

9 1. On or about September 15, 2016, the Bureau received an Application for Gambling  
10 Establishment Key Employee License, with attachments, as well as a Key Employee  
11 Supplemental Background Investigation Information Form both dated September 14, 2016,  
12 (Application), from Applicant.

13 2. On September 19, 2016, the California Gambling Control Commission (Commission)  
14 issued an interim key employee license, number GEKE-002249, to Applicant which was valid  
15 until August 27, 2018 when it was canceled by the Commission based upon the Bureau’s  
16 recommendation of denial pursuant to CCR section 12354, subdivision (e)(5).

17 3. On or about August 20, 2018, the Bureau submitted a Cardroom Key Employee  
18 Background Investigation Report (Bureau Report) to the Commission recommending the  
19 Commission deny Applicant’s Application.

20 4. On October 4, 2018, pursuant to CCR section 12054, subdivision (a)(2), the  
21 Commission considered Applicant’s Application and elected to refer consideration of Applicant’s  
22 Application to an evidentiary hearing to be held pursuant to CCR section 12060 with the Bureau  
23 to serve as Complainant.

24 5. On or about October 16, 2018, Applicant submitted a signed Notice of Defense, dated  
25 October 11, 2018 which requested an evidentiary hearing.

26 6. On or about February 13, 2019, the Commission sent a Notice of Hearing and  
27 Prehearing Conference, via certified mail, to Applicant and Complainant.

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1 constitute acting as an employee of PFC. There were also a number of repeated failures to  
2 properly and forthrightly answer questions to the Bureau in the application process.

3 Applicant's Interactions with the Bureau

4 14. The first area of concern involves the time period of July 2014 to February 2016  
5 wherein the Bureau performed three unannounced onsite inspections of PFC. Applicant was  
6 present during each of these visits and assisted the Bureau in their inspections.

7 15. The Letter of Warning dated October 20, 2015 (LOW 2015) identified the first onsite  
8 inspection as occurring on or around June 22, 2014, wherein Bureau Field Representative Daniel  
9 Alvarez (FR Alvarez) met with Applicant, Applicant's sister, and a dealer. The LOW 2015  
10 identified a follow up visit on or around July 14, 2015 wherein FR Alvarez met with Applicant.  
11 Applicant's sister arrived only as FR Alvarez was leaving.

12 16. During these visits FR Alvarez identified Applicant as a manager for PFC and asked  
13 her various questions. Applicant testified that she was not working at PFC. She believed that her  
14 sister was the one in charge despite her answering the Bureau's questions. She testified that PFC  
15 was very small and everyone could see people when they arrived but that she did not recall seeing  
16 the agents. Applicant also testified that she thought another key employee may have been present.  
17 Importantly, the Letter of Warning following these visits made no mention of other PFC key  
18 employees, managers, or owners being present, especially during the second visit, at least  
19 initially.

20 17. Again on February 8, 2016, the Bureau conducted an onsite inspection of PFC wherein  
21 FR Alvarez once again met with Applicant and identified her as a manager for PFC. During this  
22 visit, Applicant interacted with FR Alvarez and contacted her sister by phone, who indicated they  
23 would comply with the Bureaus' request. Again there was no mention of other key employees,  
24 managers, or owners being present. Applicant testified at this time that she was doing more "ear  
25 hustling" as she was ready to return to work at PFC at that time. She testified that she didn't help  
26 with the inspections. However, in her written statements to the Bureau Applicant stated she  
27 helped her sister out with inspections because her sister was still learning. She said she had no  
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1 other jobs. She was simply hanging around the cardroom.

2 18. It is apparent under the Gambling Control Act that individuals cannot work in a  
3 cardroom as a manager without being licensed as a key employee. If Applicant was working as a  
4 manager or performing the duties of a manager as indicated by the Bureau agents in the Letters of  
5 Warning it would reflect poorly on Applicant's application, not to mention PFC. The fact that  
6 Applicant occupied a key employee position before she left in 2014, interacted with the Bureau  
7 during the 2015 and 2016 inspections such that they called her a manager, and that she was the  
8 apparent point of contact during the third visit creates the impression that Applicant and PFC  
9 were not in compliance with the Act. Applicant's inconsistent testimony was not conclusive.  
10 Unfortunately, there was nothing offered by the Complainant beyond the statements in the Letters  
11 of Warning in opposite leaving the Commission uncertain as to what precisely occurred.

12 Applicant's Application

13 19. On Applicant's Application, she did not disclose that she was employed by PFC from  
14 February 2016 until the date of her application. In her testimony she had trouble explaining why  
15 she did not put it on the application. Ultimately, after extensive questioning, she believed the  
16 Commission and Bureau likely knew that she was employed at PFC during this time as the  
17 Commission had issued her a temporary work permit and for that reason she may have not listed  
18 it.

19 20. The application forms that applicants are required to fill out mandate they disclose  
20 employment history on their application for the last ten years. Indeed, the third page of the  
21 supplemental form specifically states, "BEGINNING WITH YOUR CURRENT  
22 EMPLOYEMENT..." While Applicant's testimony about being issued a work permit from the  
23 Commission is plausible, the fact that Applicant did not answer this question appropriately is  
24 troubling and when combined with the issues of her interaction with the Bureau above and the  
25 discrepancy over her start date listed below raises additional uncertainties about her  
26 forthrightness.

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1 Applicant's Return Start Date at PFC

2 21. In response to Applicant's application, the Bureau inquired about her 2014  
3 employment end date with PFC and her overall employment. On July 13, 2017, Applicant stated  
4 that she was currently working at PFC and that the 2014 date was when she walked out. On July  
5 27, 2017 the Bureau inquired further as to when Applicant started back at PFC and what her  
6 duties were upon her return. Applicant provided a letter on or around August 14, 2017 in response  
7 indicating that she returned to PFC on February 23, 2016 with duties as a cardroom liaison and  
8 personal assistant. Strangely, in that same response she stated she performed no duties at PFC  
9 from July 31, 2014 through September 19, 2016.

10 22. On or around August 22, 2017 the Bureau was forced to inquire further about the  
11 discrepancy. Applicant provided a letter on or around August 24, 2017 which indicated her  
12 statement regarding the September 19, 2016 start date was a mistake and that it should have been  
13 February 23, 2017, which in response to a further Bureau inquiry, she ultimately was required to  
14 correct to February 23, 2016 in a statement provided on or around August 10, 2018.

15 23. Applicant's inability to answer the Bureau's questions completely and accurately  
16 upfront without requiring repeated follow up is troubling and makes determining the truthfulness  
17 of her statements difficult.

18 Applicant Receiving Payments from PFC

19 24. During the period Applicant stated she was purportedly not employed by PFC, she still  
20 continued to be paid bi-weekly payments that were equal to the amounts she received before and  
21 after her time away from PFC. Applicant testified about these payments saying that she knew she  
22 was receiving money, but she thought it was just her mother helping her out. She testified she  
23 never deposited the checks as her husband took care of that. In her statements to the Bureau she  
24 said she had no jobs and that her husband supported her.

25 25. Applicant's testimony in this regard is difficult to sort out. On the one hand it is not  
26 surprising that one spouse might support another spouse and deposit checks in the manner she  
27 indicated, but it is difficult to square Applicant's stated ignorance of the precise source of the  
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1 funds with the fact that she continued to receive the same amount of money after her employment  
2 ceased, her acknowledgment that her mother was helping her out, and her continued presence at  
3 PFC. This is compounded by her inconsistent statements regarding her employment, as well as  
4 her interacting with the Bureau as “manager” when she was supposedly not working.

5 26. Ultimately, Applicant’s testimony and statements which attempted to explain her  
6 actions during her time away from PFC, her behavior with the Bureau inspections, the receipt of  
7 money from PFC, along with her actions on the application are not convincingly in support of her  
8 Application. These issues present serious problems under the Gambling Control Act including  
9 unlicensed individuals working in a cardroom and an Applicant failing to thoroughly and  
10 forthrightly interact with the Bureau.

11 27. Unfortunately, Applicant provided no additional documentation about her application  
12 and suitability, and offered no testimony from additional witnesses who might have corroborated  
13 her account of events or supported her Application.

14 28. The matter was submitted for Commission consideration on Friday, May 31, 2019.

### 15 **LEGAL CONCLUSIONS**

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

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

23 31. A “finding of suitability” means a finding that a person meets the qualification criteria  
24 described in subdivisions (a) and (b) of Section 19857, and that the person would not be  
25 disqualified from holding a state gambling license on any of the grounds specified in Section  
26 19859. Business and Professions Code section 19805(j).

27 32. The Commission has the responsibility of assuring that licenses, approvals, and  
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1 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose  
2 operations are conducted in a manner that is inimical to the public health, safety, or welfare.

3 Business and Professions Code section 19823(a)(1).

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

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

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

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

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

19 38. In reviewing an application for any license, the commission shall consider whether  
20 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the  
21 license will undermine public trust that the gambling operations with respect to which the license  
22 would be issued are free from criminal and dishonest elements and would be conducted honestly.  
23 Business and Professions Code section 19856(c).

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

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

3 41. 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 whose prior  
5 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the  
6 public interest of this state, or to the effective regulation and control of controlled gambling, or  
7 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in  
8 the conduct of controlled gambling or in the carrying on of the business and financial  
9 arrangements incidental thereto. Business and Professions Code section 19857(b).

10 42. 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 43. Applicant has failed to meet her burden of proving that she is a person of good  
16 character, honesty, and integrity. Applicant failed to sufficiently explain or justify the issues  
17 identified above which leaves the Commission unable to make a determination on whether she is  
18 suitable for licensure. As a result, Applicant has failed to meet her burden proving that she is  
19 qualified to receive a key employee license pursuant to Business and Professions Code section  
20 19857(a).

21 44. Additionally, Applicant has failed to meet her burden of proving that she is a person  
22 whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a  
23 threat to the public interest of this state, or to the effective regulation and control of controlled  
24 gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and  
25 activities in the conduct of controlled gambling or in the carrying on of the business and financial  
26 arrangements incidental thereto. Applicant's actions in the preceding paragraphs raise questions  
27 and concerns about her past practices which Applicant was unable, or did not attempt, to allay in  
28 her interaction with the Bureau and at the hearing. As a result, Applicant also failed to meet her  
burden proving that she is qualified to receive a key employee license pursuant to Business and  
Professions Code section 19857(b).

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**NOTICE OF APPLICANT’S APPEAL RIGHTS**

Applicant has the following appeal rights available under state law:

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

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

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.

CCR section 12066, subsection (c) provides:

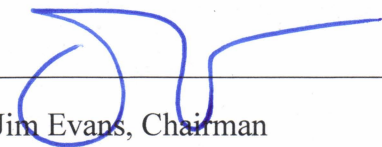
A decision of the Commission denying an application or imposing conditions on license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected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


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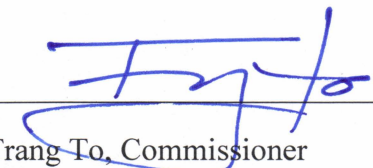
**ORDER**

1. MISTY VARGAS ALONZO'S Application for Approval of Initial Key Employee License is DENIED.
2. No costs are to be awarded.
3. Each side to pay its own attorneys' fees.

This Order is effective on July 15, 2019.

Dated: 6/14/2019 Signature:   
Jim Evans, Chairman

Dated: 6/14/2019 Signature:   
Paula LaBrie, Commissioner

Dated: 6/14/19 Signature:   
Trang To, Commissioner