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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2019-0913-10A

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

BERNEY JAMES ROBERT HOOVER

Applicant.

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, January 23, 2020
Time: 10:00 a.m.

1. This matter was scheduled for hearing before 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 Thursday, January 23, 2020 at 10:00 a.m.

2. Berney James Robert Hoover (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about Jan 3, 2017, the Bureau of Gambling Control (Bureau) received an Application for Gambling Establishment Key Employee License from Applicant.

4. On or about July 8, 2019, the Bureau issued its Cardroom Key Employee Background Investigation Report (Bureau Report) in which it concluded that Applicant was unqualified for licensure pursuant to Business and Professions Code section 19857 and disqualified for licensure pursuant to Business and Professions Code section 19859. The Bureau recommended that the Commission deny Applicant's application.

5. On or about September 12, 2019, the Commission considered Applicant's application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12056, subdivision (a).

6. Applicant received notice of Commission consideration of Applicant's application in two ways. First, Commission staff mailed an evidentiary hearing referral letter via certified

1 mail and regular mail to Applicant's address of record on September 13, 2019 which included a
2 blank Notice of Defense form with instructions to return it to the Commission within 15 days of
3 receipt or else the Commission may issue a default decision. Commission staff received no
4 response from Applicant including a Notice of Defense form or otherwise as of October 24, 2019.
5 (Exhibit A)

6 7. Second, Applicant further received notice of the hearing through a hearing notice
7 sent certified mail on October 25, 2019 to Applicant's address of record which included Exhibit
8 A and stated that the hearing was set to occur on Thursday, January 23, 2020 at 10:00 a.m.
9 Commission staff received the certificate back but it was illegible.

10 **DETERMINATION OF ISSUES**

11 8. An application to receive a license constitutes a request for a determination of the
12 applicant's general character, integrity, and ability to participate in, engage in, or be associated
13 with, controlled gambling. (Bus. & Prof. Code § 19856, subd. (b).)

14 9. In addition, the burden of proving Applicant's qualifications to receive any license
15 from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

16 10. At an evidentiary hearing pursuant to Business and Professions Code sections
17 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
18 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

19 11. Title 4, CCR section 12052, subdivision (c), provides in pertinent part:

20 (c) An applicant for any license, permit, finding of suitability,
21 renewal, or other approval shall be given notice of the meeting at
22 pursuant to Section 12006.

23 * * *

24 (2) If the application is to be scheduled at an evidentiary
25 hearing, pursuant to subsections (a) or (b) of Section 12060, the
26 notice of hearing shall inform the applicant of the following:

27 * * *

28 (F) The waiver of an evidentiary hearing, or failure of
the applicant to submit a Notice of Defense, or failure of an applicant
to appear at an evidentiary hearing, may result in:

1 1. A default decision being issued by the
2 Commission based upon the Bureau report, any supplemental reports
3 by the Bureau and any other documents or testimony already
4 provided or which might be provided to the Commission

5 12. The Commission takes official notice of the Bureau Report, any supplemental
6 reports by the Bureau and any other documents or testimony already provided to it in this matter
7 as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR
8 section 12052, subdivision (c)(2)(F)(1).

9 13. The Commission has jurisdiction to adjudicate this case by default.

10 14. The Commission may deny Applicant’s application based upon the Bureau report,
11 any supplemental reports by the Bureau and any other documents or testimony already provided
12 to it, pursuant to CCR section 12052, subdivision (c)(2)(F)(1), and Business and Professions
13 Code sections 19857 and 19859.

14 15. The Commission may further also deny Applicant’s application based upon
15 Applicant’s failure to prove to the Commission Applicant is qualified to receive a license or other
16 approval as required by Business and Professions Code section 19856, subdivision (a) and Title 4,
17 CCR section 12060(i).

18 16. Therefore, as the Applicant failed to return a Notice of Defense form, did not
19 attend the default hearing, and did not submit any information or evidence in favor of granting
20 Applicant’s Application, Applicant did not meet Applicant’s burden of demonstrating why a
21 license should be issued pursuant to Business and Professions Code section 19856(a) and Title 4,
22 CCR section 12060(i). The Commission further finds that pursuant to California Code of
23 Regulations, Title 4, section 12052, subdivision (c)(2)(F)(1), Applicant’s Application is subject to
24 denial.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

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

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, 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.

(b) A request for reconsideration 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:

- (1) 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,
- (2) 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.

Title 4, CCR section 12066, subdivision (c) provides:

A decision of the Commission denying an application or imposing conditions on a 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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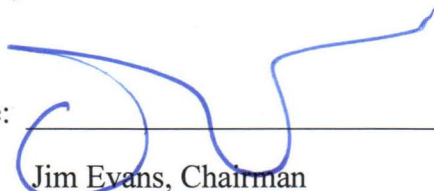
ORDER

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3 1. BERNEY JAMES ROBERT HOOVER's Application for Gambling
4 Establishment Key Employee License is DENIED.


5 2. BERNEY JAMES ROBERT HOOVER may not apply to the Commission or the
6 Bureau for any type of license, registration or work permit for one (1) year after the effective date
7 of this Order.

8
9 This Order is effective on Thursday, January 23, 2020.

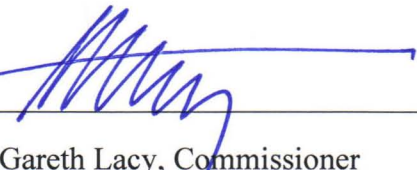
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11 Dated: 1/23/2020

Signature: 
Jim Evans, Chairman


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14 Dated: 1/23/2020

Signature: 
Paula LaBrie, Commissioner

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17 Dated: 1/23/2020

Signature: 
Gareth Lacy, Commissioner

18
19
20 Dated: 1/23/2020

Signature: 
Trang To, Commissioner

DECLARATION OF AMY ARNDT

I, Amy Arndt, declare as follows:

I am employed by the California Gambling Control Commission as an analyst in the Commission's Licensing Division. Berney James Hoover case has been assigned to me for processing.

On September 13, 2019, I mailed a Gambling Control Act hearing referral letter to Berney James Hoover at [REDACTED] by regular mail and certified mail pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, section 12006. This letter provided notice to Mr. Hoover that consideration of his application was being referred to a Gambling Control Act hearing pursuant to CCR, Title 4, Division 18, Chapter 1, section 12060(a). This letter included a Notice of Defense form (CGCC-ND-002) with instructions to return the Notice of Defense to the Commission within 15 days of receipt in order to preserve their right to an administrative hearing.

Today is October 24, 2019 and I have not received the Notice of Defense form or any communication from Mr. Hoover regarding a request for a Gambling Control Act hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Executed on October 24, 2019, in Sacramento, California.



Amy Arndt