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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

MICHAEL OWENS

Applicant.

CGCC Case No. CGCC-2019- 0328-8F
BGC Case No. BGC-HQ2019-00011SL

DECISION AND ORDER

Hearing Date: September 13, 2019
Time: 10:00 a.m.

This matter was heard by the California Gambling Control Commission (Commission)¹ 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 September 13, 2019.

Noel Fischer, Supervising Deputy Attorney General, State of California, represented complainant Stephanie Shimazu, Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Michael Owens (Applicant) failed to appear and was not represented at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the following: (1) Notice of Evidentiary Hearing and Prehearing Conference with attachments; (2) the Bureau's Gambling Establishment Key Employee Initial Background Investigation Report, Level II; (3) Applicant's signed Notice of Defense; and (4) the Conclusion of Prehearing Conference Letter.

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

(1) Statement to Applicant; Statement of Particulars; Excerpts from the California Business and Professions Code and the CCR, Bates Nos. 001-021;

(2) November 30, 2016 Application for Interim Key Employee License, Bates Nos. 022-024;

¹ Commissioner Lacy was not present at the hearing.

1 (3) December 2, 2016, correspondence from the Commission to Applicant enclosing the
2 Interim Key Employee License, number GEKE-002271, Bates Nos. 025-027;

3 (4) December 21, 2016, Redacted Application for Gambling Establishment Key Employee
4 License and Supplemental Information Form, Bates Nos. 028-047;

5 (5) February 1, 2017, Notice of Cancellation of Interim Portable Personal Key Employee
6 License, Bates Nos. 048-051;

7 (6) March 22, 2017, Application for Interim Key Employee License, Bates Nos. 052-054;

8 (7) March 27, 2017, Interim Key Employee License for Michael Owens, number GEKE-
9 002305, Bates Nos. 055-057;

10 (8) November 2, 2018 Courtesy Renewal Notice of Key Employee License GEKE-
11 002305 and January 1, 2019, Redacted Application for Gambling Establishment Key Employee
12 License, Bates Nos. 058-065;

13 (9) February 12, 2019, Redacted copy of the Bureau's Gambling Establishment Key
14 Employee Initial Background Investigation Report, Level II (with attachments) regarding Michael
15 Owens, Bates Nos. 066-099;

16 (10) March 15, 2019, Notification of Scheduled Commission Meeting, Bates Nos. 100-
17 101;

18 (11) March 28, 2019, California Gambling Control Commission Licensing Division
19 Memorandum, Bates Nos. 102-109;

20 (12) March 29, 2019, Referral of Initial Key Employee License Application to an
21 Evidentiary Hearing for Michael Owens, Bates Nos. 110-112;

22 (13) April 3, 2019, Executed Notice of Defense for Michael Owens, Bates Nos. 113-115;

23 (14) April 9, 2019, License History for Michael Owens with Certification of Official
24 Record, Bates Nos. 116-118;

25 (15) July 2, 2019, Notice of Hearing Regarding Application for Approval of Gambling
26 Establishment Key Employee License for Michael Owens, CGCC Case No. CGCC-2019-0238-
27 8F (without attachments), Bates Nos. 119-124;

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1 (16) Redacted Civil Court Documents and Paystubs, case number M-CV-0028280, *Lobel*
2 *Financial Corp. vs. Malaika Boyd, et al.*, filed date August 10, 2007, Bates Nos. 125-161;

3 (17) Redacted Criminal Court Documents with Police Report and Order after Petition and
4 Order for Dismissal, case number 140050, *People v. Michael Owens*, conviction date January 12,
5 2010, Bates Nos. 162-178;

6 (18) Redacted Civil Court Documents, Promissory Notes, and Proof of Payment, case
7 number 11UD09326, *M. Graf, Trustee of the Cambridge Street Trust #2332 vs. Michael Owens*,
8 Bates Nos. 179-210;

9 (19) Redacted Civil Court Documents and Proof of Payment, case number 12UD04689,
10 *4735 College Oak Drive, L.L.C. vs. Michael Owens*, filed date May 31, 2012, Bates Nos. 211-
11 236;

12 (20) Redacted Tax Lien Documents, Bates Nos. 237-241;

13 (21) Declaration of Service by Overnight Courier, Bates Nos. 242-243.

14 The case was submitted on September 13, 2019.

15 FINDINGS OF FACT

16 1. On or about November 30, 2016 Applicant submitted an Application for an
17 Interim Key Employee License for his employment as a Security Shift Supervisor, a key
18 employee position, at The Tavern at Stones Gambling Hall and The Saloon at Stones Gambling
19 Hall.

20 2. On December 2, 2016 the Commission issued an Interim Key Employee License
21 to Applicant valid through December 31, 2018, number GEKE-002271.

22 3. On or about December 21, 2016, the Bureau received Applicant's Application for
23 Gambling Establishment Key Employee License as well as a Key Employee Supplemental
24 Background Investigation Information with attached schedules (collectively "Application").

25 4. On February 1, 2017, Applicant's Interim Key Employee License was cancelled
26 pursuant to California Code of Regulations, title 4, section 12354, subdivision (e)(1).

27 5. On or about March 22, 2017, Applicant submitted a second Application for an
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1 Interim Key Employee License and on March 27, 2017, the Commission issued Applicant an
2 Interim Key Employee License valid through March 31, 2019, number GEKE-002305

3 6. On or about February 12, 2019, the Bureau submitted a Gambling Establishment
4 Key Employee Initial Background Investigation Report to the Commission recommending that
5 the Commission approve Applicant's Application.

6 7. On March 28, 2019, pursuant to California Code of Regulations, title 4, section
7 12054, subdivision (a)(2), the Commission voted to refer consideration of the Application to an
8 evidentiary hearing to be conducted before the Commission as a Gambling Control Act (GCA)
9 hearing under the provisions of California Code of Regulations, title 4, section 12060.

10 8. Commission staff received a signed Notice of Defense form from Applicant signed
11 on April 3, 2019 requesting an evidentiary hearing.

12 9. Commission staff mailed a Notice of the Hearing by certified mail on July 2, 2019,
13 to Applicant's address of record stating that a prehearing conference was scheduled for July 29,
14 2019 at 3:00 pm and an evidentiary hearing was scheduled on September 13, 2018 at 10:00 a.m.

15 10. On July 29, 2019, Jason Pope, Presiding Officer for the forthcoming hearing,
16 conducted the pre-hearing conference with Deputy Attorney General Noel Fischer in attendance.
17 Applicant was not present and no one appeared on his behalf.

18 11. On July 30, 2019, a letter confirming that the prehearing conference occurred was
19 mailed out to the parties. The letter further explained that personal attendance is required at the
20 evidentiary hearing and explained the process for withdrawing a Notice of Defense in the event
21 that Applicant did not wish to pursue his application. After the prehearing conference, the
22 Commission's Administrative Hearings Coordinator, Pam Mathauser also called the Applicant.
23 The Applicant told Ms. Mathauser that he intended to appear for the evidentiary hearing.

24 12. Applicant did not withdraw his Notice of Defense or contact the Commission
25 thereafter. Applicant was not present at the commencement of the hearing on September 13,
26 2019. During a brief recess, Ms. Mathauser called Applicant to determine whether or not he
27 intended to appear. Ms. Mathauser stated on the record that the Applicant told her that he changed
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1 his mind and was not going to attend. Mr. Fischer also stated on the record that he made multiple
2 attempts to contact the Applicant to obtain his evidence and witness list, but the Applicant did not
3 respond to his inquiries.

4 13. The hearing proceeded without Applicant's participation. No evidence was
5 submitted on Applicant's behalf.

6 LEGAL CONCLUSIONS

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

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

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

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

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

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

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1 20. Every key employee shall apply for and obtain a key employee license. Business
2 and Professions Code section 19854(a).

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

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

7 23. At an evidentiary hearing pursuant to Business and Professions Code sections
8 19870 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant
9 to prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,
10 CCR section 12060(i). Business and Professions Code section 19856(a).

11 24. 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. Business and Professions Code section 19856(b).

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

17 26. An application for a Key Employee License shall be denied by the Commission if
18 the applicant is found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of
19 Business and Professions Code section 19857.

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

25 28. Applicant did not attend the hearing and did not submit any information or
26 evidence in favor of granting his Application. Therefore, Applicant did not meet his burden of
27 demonstrating that he is eligible and suitable for a key employee license pursuant to Business and
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1 Professions Code section 19857 and Title 4, CCR section 12060(i).

2 NOTICE OF APPLICANT’S APPEAL RIGHTS

3 Applicant has the following appeal rights available under state law:

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

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

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

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

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

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

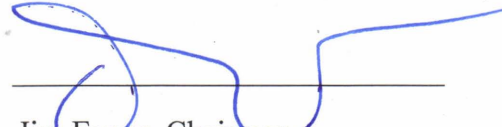
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ORDER


1. Applicant Michael Owens' Application for a Key Employee License is DENIED.
2. Each side to pay its own attorneys' fees.

This Order is effective on November 10, 2019.

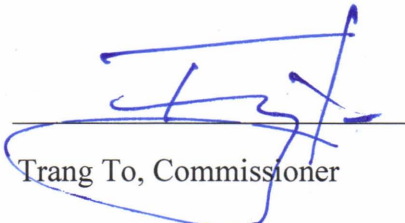
Dated: 10/10/19

Signature: 
Jim Evans, Chairman

Dated: 10/10/19

Signature: 
Paula LaBrie, Commissioner

Dated: 10/10/19

Signature: 
Trang To, Commissioner