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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons for Denial of Work Permit Regarding:

Shawn Kalani Kahanu

Work Permit No.: GEWP-001289

Respondent.

BGC Case No. BGC-HQ2016-00004SL
CGCC Case No. CGCC-2016-0225-12A

DECISION AND ORDER

Hearing Date: November 8, 2016
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 November 8, 2016.

Jennifer Henderson (Henderson), Deputy Attorney General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Respondent Shawn Kahanu (Kahanu) appeared on his own behalf.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing, with enclosures, sent by the Commission to Kahanu and Henderson, on July 5, 2016.

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

- (1) Statement of Reasons; Request for Discovery, Statement to Respondent; copies of Bus. & Prof. Code §§ 19870 & 19871; copy of Cal. Code. Regs., tit 4, § 12060; September 19, 2016, Certificate of Service by Certified Mail Service, and Notice of Defense, dated March 14, 2016, Bates Nos. BGC 001-022;
- (2) Notices sent by the Commission:
 - a. February 26, 2016, letter from Deputy Director, Licensing Division,

1 Katherine Ellis, notifying Shawn Kahanu that the Commission voted to
2 refer consideration of his application to a hearing, Bates Nos. BGC
3 023-025; and

4 b. July 5, 2016, Notice of Hearing [and Prehearing Conference], with
5 Attachments A & B, and Proof of Service, Bates Nos. BGC 026-035;

6 (3) Commission Documents:

7 a. October 26, 2007, Letter to Shawn Kahanu regarding cancellation of
8 state-issued temporary work permit, Bates Nos. BGC 036-037;

9 b. October 26, 2007, Letter to David Stearns, Central Coast Casino,
10 regarding cancellation of state-issued temporary work permit for
11 Shawn Kahanu, Bates No. BGC 038;

12 c. April 4, 2007, Letter to Shawn Kahanu regarding Denial of Work
13 Permit Application – Central Coast Casino, Grover Beach, Bates No.
14 BGC 039;

15 d. July 13, 2015, Letter to Shawn Kahanu regarding Notice of Ineligibility
16 for Temporary Work Permit, Bates Nos. BGC 040-042;

17 e. February 12, 2016, Letter to Shawn Kahanu regarding Notice of
18 Scheduled Commission Meeting, Bates No. BGC 043; and

19 f. February 25, 2016, Staff Report for hearing, Bates Nos. BGC 044-045;¹

20 (4) Bureau Documents:

21 a. December 17, 2007, Letter to Shawn Kahanu recommending denial of
22 application for a work permit, Bates Nos. BGC 046-047;

23 b. January 7, 2008, Background Investigation Report, Bates Nos. BGC
24 048-073;

25 c. January 18, 2008, Recommendation for Denial of Application, Bates
26 Nos. BGC 074-077; and

27 ¹ Complainant's Exhibit 3(f) is mistakenly listed as the second Exhibit 3(d) in Complainant's list of
28 exhibits.

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- d. January 2016, Background Investigation Report, Bates Nos. BGC 078-081;
- (5) Application for Work Permit, dated 8/14/2007, Bates No. BGC 082;
- (6) Application for Initial Work Permit, dated 6/10/2015, Bates Nos. BGC 083-090;
- (7) Grover Beach Police Department Incident Report regarding Penal Code section § 273.5(a), dated 4/21/2007, Bates Nos. BGC 091-095;
- (8) San Luis Obispo County Documents:
 - a. Superior Court records regarding Vehicle Code section 23152, violation date 11/18/2004, Bates Nos. BGC 096-109;
 - b. Sheriff's Department Booking Report regarding Penal Code section 273.5(a), dated 4/21/2007, Bates Nos. BGC 110-111;
 - c. Superior Court records regarding Penal Code section 273.5(a), violation date 4/21/2007; Superior Court records of Dismissal under Penal Code section 1203.4, dated 8/19/2010, Bates Nos. BGC 112-133; and
 - d. Superior Court Order for Dismissal under Penal Code section 1203.4, dated 8/19/2010, Bates No. BGC 134; and
- (9) City of Paso Robles Documents:
 - a. Police Department Incident Report regarding Penal Code section 273.5, reported 4/25/2008, Bates Nos. BGC 135-141; and
 - b. Police Department Revocation of Work Permit dated 5/1/2008, Bates No. BGC 142.

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

- (A) Character reference email from Glenn Tracey to Shawn Kahanu, dated October 7, 2016;

1 (B) Character reference email from Glenn Beadle to Shawn Kahanu, dated
2 October 6, 2016; and

3 (C) Character reference letter from Harry M. Brown Jr. to the Department of
4 Justice, dated October 5, 2016.²

5 The administrative record was left open for 35 days to allow the parties to submit
6 additional documents regarding Kahanu's applications for employment to Commerce Casino and
7 Chumash Casino, and his application for a work permit to Los Angeles County.

8 On December 13, 2016, Presiding Officer Jason Pope accepted into the evidence the
9 following exhibit offered by Henderson:

10 (10) Letter from Henderson to Presiding Officer Jason Pope with the following
11 attachments: (1) Kahanu's updated release of information form; (2)
12 Kahanu's application to Commerce Casino; (3) Kahanu's application to
13 Chumash Casino; (4) November 17, 2016 facsimile from the Paso Robles
14 Police Department; (5) a copy of Paso Robles Municipal Ordinances
15 5.08.045; and (6) a full copy of Kahanu's Application for Work Permit,
16 dated 8/14/2007, Bates Nos. 000001-000029.

17 The matter was submitted on December 13, 2016.

18 FINDINGS OF FACT

19 1. On or about June 19, 2015, Kahanu submitted an Application for Initial Regular Work
20 Permit/Temporary Work Permit (Application) to the Bureau.

21 2. On or about July 13, 2015, the Commission notified Kahanu that he is ineligible to
22 hold a temporary work permit pursuant to CCR section 12122(c)(2)(E)(3) and (4).

23 3. At its February 25, 2016 meeting, the Commission voted to refer consideration of
24 Kahanu's Application to a Gambling Control Act (GCA) evidentiary hearing.

25 4. On or about February 26, 2016, the Commission sent a letter, via certified mail, to
26 Kahanu informing him that the Commission referred consideration of his Application to a GCA

27 _____
28 ² The letter mistakenly lists the date as "October 5, 2106."

1 evidentiary hearing.

2 5. On or about March 17, 2016, Kahanu submitted a Notice of Defense to the
3 Commission and Bureau requesting an evidentiary hearing on the consideration of his
4 Application.

5 6. On or about July 5, 2016, the Commission served a Notice of Hearing on Kahanu and
6 Henderson.

7 7. On or about September 19, 2016, the Bureau filed a Statement of Reasons with the
8 Commission and served the Statement of Reasons on Kahanu via certified mail. In its Statement
9 of Reasons, the Bureau recommends the denial of Kahanu's Application.

10 8. On or about September 21, 2016, the noticed Prehearing Conference was held before
11 Presiding Officer Jason Pope, Attorney III of the Commission. Jennifer Henderson, Deputy
12 Attorney General, attended on behalf of the Bureau. Shawn Kahanu attended on his own behalf.

13 9. On or about September 22, 2016, the Commission served a Conclusion of Prehearing
14 Conference letter on Kahanu and Lopez.

15 10. The Commission heard Case No. CGCC-2016-0225-12A on November 8, 2016. The
16 Bureau was represented throughout the hearing by Deputy Attorney General Jennifer Henderson.
17 Respondent Shawn Kahanu represented himself throughout the hearing.

18 11. On or about January 28, 2005, Kahanu was convicted by the San Luis Obispo
19 Municipal Court of violating Vehicle Code section 23152(b), driving under the influence of
20 alcohol/.08 percent (DUI), a misdemeanor. Kahanu was sentenced to 2 days in jail, 3 years of
21 probation, and was ordered to pay a fine. On or about December 16, 2005, Kahanu's probation
22 was extended to 49 months.

23 12. On or about June 28, 2007, Kahanu was convicted by the San Luis Obispo Municipal
24 Court of violating Penal Code section 273.5(a), inflicting corporal injury on a spouse/cohabitant,
25 a misdemeanor. Kahanu was sentenced to 12 days in jail, 3 years of probation, and ordered to
26 attend a 52 week batterer's intervention program. Kahanu completed the 52 week batterer's
27 intervention program and fulfilled the terms of his probation.

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1 13. Inflicting corporal injury on a spouse/cohabitant is a reprehensible crime and reflects
2 extremely poorly upon Kahanu's character and integrity. A conviction of Penal Code section
3 273.5(a), inflicting corporal injury on a spouse/cohabitant, may alone be sufficient to find that an
4 applicant lacks the good character and integrity necessary to be found suitable for licensure under
5 the Gambling Control Act.

6 14. On or about August 19, 2010, Kahanu's conviction for violating Penal Code section
7 273.5(a), inflicting corporal injury on a spouse/cohabitant, a misdemeanor, was dismissed by the
8 San Luis Obispo Superior Court pursuant to Penal Code sections 17, 1203.4 and 1203.4a.

9 15. On or about August 3, 2007, Kahanu submitted an Application for Initial Regular
10 Work Permit/Temporary Work Permit to the Commission. Question 4 on the Application for
11 Initial Regular Work Permit/Temporary Work Permit asks "Within the last ten years, have you
12 been convicted of a misdemeanor involving a firearm or other deadly weapon, gaming or gaming-
13 related activities, violations of the Gambling Control Act, or dishonesty or moral turpitude, not
14 including convictions that have been expunged or dismissed as provided by law?" Kahanu
15 checked the box marked "No" to Question 4 on his August 3, 2007 Application for Initial Regular
16 Work Permit/Temporary Work Permit.

17 16. Kahanu's June 28, 2007 conviction for violating Penal Code section 273.5(a),
18 inflicting corporal injury on a spouse/cohabitant, is a misdemeanor involving moral turpitude. As
19 a result, Kahanu should have checked the box marked "Yes" to Question 4 on his August 3, 2007
20 Application for Initial Regular Work Permit/Temporary Work Permit.

21 17. Question 4(B) on the Work Permit Questionnaire that was part of his August 3, 2007
22 Application for Initial Work Permit/Temporary Work Permit asks the applicant "Have you been
23 convicted of a misdemeanor within the past 10 years?" The Work Permit Questionnaire also
24 requires the applicant to provide details regarding the convictions if the applicant checks the box
25 marked "Yes" to Question 4(B). Kahanu checked the box marked "Yes" to Question 4(B) on the
26 Work Permit Questionnaire and listed both his January 28, 2005 DUI misdemeanor conviction
27 and his June 28, 2007 misdemeanor conviction for inflicting corporal injury on a
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1 spouse/cohabitant.

2 18. On or about July 1, 2012, Kahanu submitted an application for employment to
3 Commerce Casino. The Commerce Casino application asks the applicant "Have you been
4 convicted of any crimes, other than a minor traffic violation?" Kahanu checked the box marked
5 "Yes," but listed only one of his two criminal convictions, his January 28, 2005 DUI
6 misdemeanor conviction.

7 19. On or about November 19, 2015, Kahanu submitted an application for employment to
8 Chumash Casino. The Chumash Casino application asks the applicant "Have you ever, in your
9 entire life, been cited, arrested, charged or convicted of a misdemeanor?" Kahanu checked the
10 box marked "Yes" and disclosed both of his misdemeanor convictions.

11 20. In his pending Application, Kahanu disclosed his misdemeanor conviction for
12 inflicting corporal injury on a spouse/cohabitant in the Work Permit Questionnaire. Kahanu did
13 not need to disclose his January 28, 2005 misdemeanor conviction for DUI/.08 percent because it
14 occurred outside of the 10 year period for required disclosures.

15 21. Kahanu incorrectly marked "No" to Question 4 on his August 3, 2007 Application for
16 Initial Regular Work Permit/Temporary Work Permit regarding whether he had been convicted
17 within the last 10 years of a crime involving moral turpitude and was not completely forthright on
18 his Commerce Casino application given that he did not list his June 28, 2007 misdemeanor
19 conviction for inflicting corporal injury on a spouse/cohabitant. However, Kahanu disclosed both
20 of his convictions on the Work Permit Questionnaire attached to his August 3, 2007 Application
21 for Initial Regular Work Permit/Temporary Work Permit, his application for employment with
22 Chumash Casino, and properly disclosed the June 28, 2007 misdemeanor conviction for inflicting
23 corporal injury on a spouse/cohabitant on his Application. As a result, there is no evidence that
24 Kahanu deliberately tried to deceive the Commission, Bureau or his employers on his various
25 applications for licensure and employment.

26 22. Kahanu submitted three letters of reference during the hearing:

27 a. Glenn Tracey (Tracey), who was a Shift Manager at Commerce Casino during
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1 the 2.5 years that Kahanu worked at Commerce Casino, states that Kahanu was
2 hardworking, prompt, diligent, trustworthy, and a major asset to the cardroom.

3 b. Glenn Beadle (Beadle) states that he has known Kahanu for over 10 years.

4 Beadle states that Kahanu is a trustable, reliable person with a strong moral
5 compass and ethics.

6 c. Harry M. Brown Jr. (Brown), Chief Engineer on the GPS IIF Program, states
7 that he has known Kahanu for over 20 years. Brown states that Kahanu is a
8 well-rounded young man with excellent character, a self-motivator, someone
9 who has learned from his prior mistakes, possesses high integrity, and poses no
10 threat to the public interest in the gaming environment.

11 23. The letters of reference from Tracey, Beadle, and Brown are favorable to Kahanu's
12 character and in support of his Application. The fact that Tracey, Beadle, and Brown did not
13 attend the hearing or testify under oath somewhat diminishes the evidentiary value of the letters
14 of reference.

15 24. There was no evidence presented that Kahanu has had any criminal convictions,
16 arrests, or further incidents involving alcohol or domestic violence since June 28, 2007, a period
17 of approximately 9.5 years.

18 25. There was no evidence presented that Kahanu has had any employment issues or
19 disciplinary action related to his work in controlled gambling.

20 26. Based upon Kahanu's successful completion of probation; the dismissal of his
21 misdemeanor conviction for inflicting corporal injury upon a spouse/cohabitant pursuant to Penal
22 Code sections 17, 1203.4, and 1203.4a; the lack of any evidence presented regarding any
23 disciplinary action or issues regarding his employment in the gambling industry; the lack of any
24 evidence presented regarding any criminal convictions, arrests, or further incidents involving
25 alcohol or domestic violence since June 28, 2007, a period of approximately 9.5 years; and the
26 favorable letters of reference, Kahanu has met his burden of demonstrating that he is a person of
27 good character, honesty, and integrity and a person whose prior activities, criminal record,
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1 reputation, habits and associations do not pose a threat to the public interest of the State of
2 California or to the effective regulation and control of controlled gambling.

3 27. All documentary and testimonial evidence submitted by the parties that is not
4 specifically addressed in this Decision and Order was considered but not used by the Commission
5 in making its determination on Kahanu's Application.

6 28. The matter was submitted for Commission consideration on December 13, 2016.

7 LEGAL CONCLUSIONS

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

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

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

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

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

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

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

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

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

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

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

20 40. 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 that is in all other
22 respects qualified to be licensed as provided in this chapter. Business and Professions Code
23 section 19857(c).

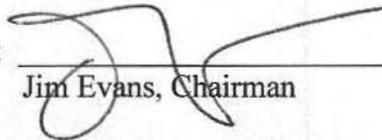
24 41. Kahanu has met his burden of demonstrating that he is qualified for the issuance of a
25 work permit.

ORDER

1. Shawn Kahanu's Application for Initial Regular Work Permit is APPROVED.
2. No costs are to be awarded.
3. Each side to pay its own attorneys' fees.

This Order is effective on the date of the last commissioner's signature below.

Dated: 1/3/17

Signature: 
Jim Evans, Chairman

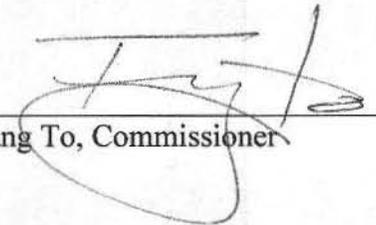
Dated: _____

Signature: _____
Tiffany E. Conklin, Commissioner

Dated: 1-3-17

Signature: 
Lauren Hammond, Commissioner

Dated: 1-3-17

Signature: 
Trang To, Commissioner

license will undermine public trust that the gambling operations with respect to which the license would be issued are free from criminal and dishonest elements and would be conducted honestly. Business and Professions Code section 19856(c).

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

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

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

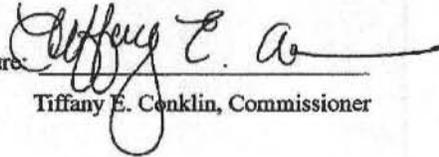
40. No gambling license shall be issued unless, based on all of the information and documents submitted, the commission is satisfied that the applicant is a person that is in all other respects qualified to be licensed as provided in this chapter. Business and Professions Code section 19857(c).

41. Kahanu has met his burden of demonstrating that he is qualified for the issuance of a work permit.

ORDER

1. Shawn Kahanu's Application for Initial Regular Work Permit is APPROVED.
 2. No costs are to be awarded.
 3. Each side to pay its own attorneys' fees.
- This Order is effective on the date of the last commissioner's signature below.

Dated: _____ Signature: _____
Jim Evans, Chairman

Dated: Dec. 26, 2016 Signature: 
Tiffany E. Conklin, Commissioner

Dated: _____ Signature: _____
Lauren Hammond, Commissioner

Dated: _____ Signature: _____
Trang To, Commissioner