

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

STEPHEN ALF SOTTERO

Work Permit Number GEWP-001349

Respondent.

BGC Case No. SOT GEWP-001349
CGCC Case No. CGCC-2009-09-09

DECISION AND ORDER

Hearing Date: March 19, 2015
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 March 19, 2015.

Ronald Diedrich, 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.

Stephen Alf Sottero (Sottero) failed to appear and was not represented at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the following:

- (a) Notice of Hearing and Prehearing Conference, dated January 30, 2014, served by certified mail, return receipt requested.

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

- (1) Statement of Reasons filed and served by the Bureau;
(2) Copies of the following: (a) Commission Meeting Minutes of September 9, 2009; (b) December 3, 2009 Referral for Evidentiary Hearing; (c) January 30, 2014 Notice of Hearing and Prehearing Conference; (d) April 7, 2014 Conclusion of Prehearing Conference; (e) Notice of Cancellation of April 29, 2014 hearing; (f) May 8, 2014 Notice of Rescheduled Hearing to

1 August 12, 2014; (g) July 25, 2014 Notice of Rescheduled Hearing to
2 November 4, 2014; (h) October 20, 2014 Notice of Rescheduled Hearing to
3 March 19, 2014¹; (i) November 19, 2014 Party Advisement/Additional
4 Pre-Hearing Conference; (j) February 5, 2015 letter from Deputy Attorney
5 General Jennifer Henderson, with attachments, opposing abandonment of
6 Sottero's Application for a Work Permit; (k) Notice and Agenda of
7 Commission Meeting for February 10, 2015; (l) Unofficial transcript of
8 Commission discussion of Item 5.B., consideration of abandonment of
9 application, from the February 10, 2015 Commission meeting; and (m)
10 Notice and Agenda of Commission Meeting for March 19, 2015;

11 (3) Certified copies of the Bureau's official records consisting of: (a) Sottero's
12 Application for Initial Regular Work Permit/Temporary Work Permit dated
13 March 26, 2008, and received by the Bureau on April 11, 2008; (b) Bureau
14 Work Permit Employee Background Investigative Report, with two
15 attachments, dated November 4, 2008; (c) Materials received from the
16 State of Washington Gambling Commission in response to the Bureau's
17 request; (d) Letter received from the State of Nevada Gaming Control
18 Board in response to the Bureau's request; (e) E-mail from Sottero to
19 Bureau Analyst Pat West, dated July 16, 2008; (f) Letter dated August 28,
20 2009 from Commission Licensing Analyst Joan Perrin to Sottero, including
21 the Commission staff summary; and (g) Letter dated September 8, 2009
22 from Keith Sharp to the Commission requesting an evidentiary hearing;
23 and

24 (4) Copy of the Agenda for the Nevada Gaming Commission Meeting held on
25 September 21, 2006, obtained by Deputy Attorney General Jennifer
26 Henderson from the Nevada Gaming Commission website on February 2,
27

28 ¹ This is a typographical error and should read "March 19, 2015."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2010.

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

- (a) Series of e-mails between Sottero and Commission Senior Legal Analyst Pam Mathauser.

The matter was submitted on March 19, 2015.

FINDINGS OF FACT

1. On or about April 9, 2008, Sottero filed an Application for Initial Regular Work Permit/Temporary Work Permit (Application) to the Commission.
2. On or about November 12, 2008, the Bureau submitted a Work Permit Background Investigation Report to the Commission, recommending the denial of Sottero's Application.
3. On or about September 9, 2009, Sottero submitted a written request for an evidentiary hearing on his Application to the Commission.
4. At its September 9, 2009 meeting, the Commission took no action on the Application and referred the matter to an evidentiary hearing.
5. On or about December 3, 2009, the Executive Director of the Commission set the matter for an administrative hearing to be conducted pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, CCR section 12050(b)(2).
6. On or about December 13, 2013, the Bureau filed a Statement of Reasons with the Commission recommending the denial of Sottero's Application.
7. On or about January 30, 2014, the Commission served a Notice of Hearing and Prehearing Conference on Sottero and the Bureau.
8. On or about April 3, 2014, the noticed Prehearing Conference was held before Presiding Officer Jason Pope, Attorney III of the Commission. Ronald Diedrich, Deputy Attorney General, attended on behalf of the Bureau. Sottero failed to attend the Prehearing Conference.
9. On or about April 7, 2014, the Commission served a Conclusion of Prehearing

1 Conference letter on Sottero and the Bureau.

2 10. On or about October 20, 2014, the Commission served a Notice of Rescheduled
3 Hearing on Sottero and the Bureau. Sottero's address of record is 11 E. Rich #1 Spokane, WA
4 99207. Sottero was served by certified mail addressed to 11 E. Rich #1 Spokane, CA 99207.
5 Sottero signed the certified mail delivery confirmation on October 30, 2014. Sottero was
6 properly noticed of the hearing date and time.

7 11. The Commission heard Case No. CGCC-2009-09-09 on March 19, 2015. The
8 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
9 Ronald Diedrich. Sottero failed to appear throughout the pendency of the hearing.

10 12. The failure of an applicant to attend the hearing on his or her application may
11 affect the applicant's ability to apply for and/or receive a work permit, registration or license from
12 the Commission and/or from other jurisdictions.

13 13. Failing to attend the hearing, Sottero did not present or submit any information or
14 evidence in favor of granting his Application.

15 14. The matter was submitted for Commission consideration on March 19, 2015.

16 LEGAL CONCLUSIONS

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

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

24 17. At an evidentiary hearing pursuant to Business and Professions Code sections
25 19870 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant
26 to prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,
27 CCR section 12060(i).

28

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

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

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

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

14 22. Application for a work permit for use in any jurisdiction where a locally issued
15 work permit is not required by the licensing authority of a city, county, or city and county shall be
16 made to the department, and may be granted or denied for any cause deemed reasonable by the
17 commission. Business and Professions Code section 19912(d).

18 23. Upon issuance of a denial of a regular work permit by the Commission, the
19 temporary work permit previously issued shall become void and shall not be used thereafter.
20 Title 4, CCR section 12120(b).

21 24. Sottero did not attend the Prehearing Conference or administrative hearing, or
22 submit any information or evidence in favor of granting his Application. As a result, Sottero did
23 not meet his burden of demonstrating why a license should be issued pursuant to Business and
24 Professions Code section 19856(a) and Title 4, CCR section 12060(i).

25
26
27
28

1 NOTICE OF APPLICANT'S APPEAL RIGHTS

2 Sottero 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.
27
28

ORDER

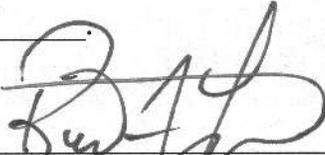
1
2 1. Stephen Alf Sottero's Application for Initial Regular Work Permit/Temporary Work
3 Permit is DENIED.²

4 2. No costs are to be awarded.

5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on May 11, 2015

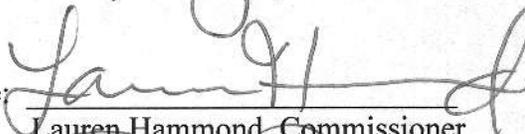
7 Dated: 4/9/2015

8 Signature: 
Richard J. Lopes, Chairman

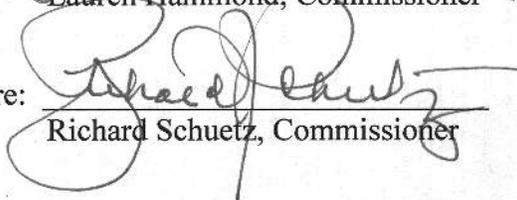
9
10 Dated: 4/9/2015

11 Signature: 
Tiffany E. Conklin, Commissioner

12 Dated: 4/9/2015

13 Signature: 
Lauren Hammond, Commissioner

14 Dated: 4/9/2015

15 Signature: 
Richard Schuetz, Commissioner

16
17
18
19
20
21
22
23
24
25
26
27 ² As a result of this Decision and Order, pursuant to Title 4, CCR section 12120(b), upon the denial of a
28 regular work permit by the Commission, Sottero's temporary work permit became void and shall not be used.