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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons:

CURT ADAM MIECZKOWSKI

Respondent.

BGC Case No. BGC-HQ2014-00015SL
CGCC Case No. CGCC-2014-1023-10

DECISION AND ORDER

Hearing Date: August 3, 2015
Time: 2:00 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(b), in Sacramento, California, on August 3, 2015.

Timothy Muscat (Muscat), 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.

John Nejedly (Nejedly) represented respondent Curt Mieczkowski (Mieczkowski).

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing and Prehearing Conference, with enclosures, sent by the Commission to Nejedly and Muscat on April 7, 2015.

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

- (1) Copies of the Statement of Reasons; Statement to Respondent; Business and Professions Code sections 19870 and 19871; CCR section 12060; and Certificate of Service by Certified Mail with signed Return Receipt dated May 26, 2015, Bates Nos. 001-018;
- (2) Copy of the Completed Notice of Defense dated March 2, 2015, Bates Nos. 019-020;
- (3) Copy of the California Gambling Control Commission Notice of Hearing

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- and Prehearing Conference letter dated April 7, 2015, Bates Nos. 021-032;
- (4) Copy of the California Gambling Control Commission Conclusion of Prehearing Conference letter dated July 3, 2015, Bates Nos. 033-034;
 - (5) Copies of Curt Adam Mieczkowski's Application for Work Permit Renewal, signed July 20, 2014, and the California Department of Justice, Bureau of Gambling Control (Bureau), Work Permit Renewal Background Investigation Report, dated September 12, 2014, Bates Nos. 035-048;
 - (6) Copies of the court records regarding the criminal complaint filed in the case of *People v. Curt Adam Mieczkowski, et al.* (Super. Ct. Alameda County, 2011, No. CR432413) on January 24, 2011, and the Clerk's Docket and Minutes in this criminal case against Curt Adam Mieczkowski, dated March 1, 2013, Bates Nos. 049-054;
 - (7) Copy of the Hayward Police Department Police Report regarding Curt Adam Mieczkowski, and others, Report Number 2010-16197, Bates Nos. 055-095;
 - (8) Copies of the additional information request letter by Bureau of Gambling Control to Curt Adam Mieczkowski, dated August 5, 2014, requesting a written statement detailing the circumstances that led to his arrest for violation of Penal Code section 182, subdivision (a)(1), and subsequent misdemeanor conviction of Penal Code section 415; E-mail by Bureau of Gambling Control to Curt Adam Mieczkowski, dated August 5, 2014; and Curt Adam Mieczkowski's e-mail response to Bureau, dated August 11, 2014, Bates Nos. 096-098; and
 - (9) Copy of the original CD of Curt Adam Mieczkowski's interview with the Hayward Police Department on January 20, 2011, Bates No. 099.

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

1 (A) Letters of reference from Stephen E. Scudero, Partner with the Nineteenth
2 Hole Casino; Brian Klarman, Key Employee with the Nineteenth Hole
3 Casino; and Joseph Fagundes, Key Employee with the Nineteenth Hole
4 Casino.

5 The matter was submitted on August 3, 2015.

6 FINDINGS OF FACT

7 1. On or about July 25, 2014, Mieczkowski submitted an Application for Work Permit
8 Renewal (Application) to the Bureau.

9 2. At its October 23, 2014 meeting, the Commission voted to refer the matter of
10 Mieczkowski's Application to an evidentiary hearing.

11 3. The Executive Director of the Commission referred the consideration of
12 Mieczkowski's Application to an evidentiary hearing pursuant to CCR section 12050(b)(2).

13 4. On or about March 2, 2015, Mieczkowski submitted a Notice of Defense to the
14 Commission requesting an evidentiary hearing.

15 5. On or about April 7, 2015, the Commission served a Notice of Hearing and Prehearing
16 Conference on Nejedly and Muscat.

17 6. On or about May 22, 2015, the Bureau filed a Statement of Reasons with the
18 Commission and served the Statement of Reasons on Mieczkowski via certified mail and Nejedly
19 via United States mail. In its Statement of Reasons, the Bureau recommends the denial of
20 Mieczkowski's Application.

21 7. On or about June 30, 2015, the noticed Prehearing Conference was held before
22 Presiding Officer Jason Pope, Attorney III of the Commission. Timothy Muscat, Deputy
23 Attorney General, appeared on behalf of the Bureau. John Nejedly appeared on behalf of
24 Mieczkowski.

25 8. On or about July 3, 2015, the Commission served a Conclusion of Prehearing
26 Conference letter on Nejedly and Muscat.

27 9. The Commission heard Case No. CGCC-2014-1023-10 on August 3, 2015. The
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1 Bureau was represented throughout the hearing by Deputy Attorney General Timothy Muscat.
2 Mieczkowski was represented throughout the hearing by John Nejedly.

3 10. On or about December 10, 2010, the Hayward Police Department prepared a Police
4 Report regarding the operation of an illegal brothel. According to this Police Report, on or about
5 February 11, 2010, Detective Cantrell of the Hayward Police Department interviewed
6 Mieczkowski after observing him arriving and leaving a suspected illegal brothel. According to
7 Detective Cantrell, Mieczkowski “admitted that he knew that the location is a brothel, but he was
8 not there today to participate in any acts of prostitution. He did admit that he was there visiting
9 his friend and that he was fully aware of the location and what went on there. He stated there
10 were currently three Asian females working at the location as prostitutes.” These admissions are
11 credible and persuasive that Mieczkowski knew that his friend was operating an illegal brothel.

12 11. On or about January 20, 2011, Mieczkowski was arrested and charged with the
13 following felony violations in the case of *People v. Curt Adam Mieczkowski, et al.* (Super. Ct.
14 Alameda County, 2011, No. CR432413): (1) Penal Code section 236.1(a), human trafficking; (2)
15 Penal Code section 182(a)(1), conspiracy to commit a crime; (3) Penal Code section 266h(a),
16 pimping; (4) Penal Code section 266i(a)(2), pandering by promise or threat; and (5) Penal Code
17 section 266i(a)(4), pandering in a house of prostitution.

18 12. Detective Cantrell interviewed Mieczkowski immediately following his January 20,
19 2011 arrest. During this interview, Mieczkowski admitted to the following: (1) that he was the
20 person who placed the ads on redbook.com and craigslist.com; (2) that he was approached three
21 (3) years ago and asked to place adds on the internet; (3) that he first thought the ads were for a
22 place where Asian women conduct massages; (4) that he quickly figured out that the ads were
23 about prostitution; (5) that he knew he profited from the house of prostitution by participating in
24 the marketing/placement of ads on the internet to solicit business; (6) that he used his personal
25 credit cards and credit cards of his mother to pay for the posting of the ads; (7) that he was aware
26 that his friend and his friend’s wife were operating brothels; (8) that the females who work in the
27 brothels were mostly brought in from China and Taiwan; and (9) that he drove the females who
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1 work in the brothels to the airport. These admissions are credible and accurately reflect the
2 circumstances surrounding his January 20, 2011 arrest. These admissions are also persuasive that
3 Mieczkowski knowingly had an active role in the operation of the illegal brothels by soliciting
4 clients through online advertisements and escorting the prostitutes to the airport.

5 13. On or about January 22, 2011, the County of Alameda issued a Declaration and
6 Determination of Probable Cause for Warrantless Arrest for Mieczkowski for a violation of Penal
7 Code section 182(A)(1), conspiracy to commit a crime. The Declaration and Determination
8 provides as follows:

9 “Through an investigation of houses of prostitution throughout Alameda County,
10 Contra Costa County, and Santa Clara County, it was determined that
11 Mieczkowski was utilizing his credit card and money to post ads offering the
12 female prostitutes and recruiting customers utilizing different telephone numbers
13 that were provided to him by the other suspects of this case. Telephone records
14 obtained through court orders show an extensive call history between him and
15 multiple suspects. Mieczkowski, during an official police contact, admitted to
16 knowing one of the brothels was a running house of prostitution and that he was
17 personal friends with one of the suspects. Craigslist.com records for recent years
18 obtained through a court order show Mieczkowski had posted several of the ads
19 that were advertising services such as massage masking the true nature of the ad
20 which was prostitution.”

21 14. On or about November 13, 2012, Mieczkowski was convicted of violating Penal Code
22 section 415, fighting/noise/offensive words, a misdemeanor, in the case of *People v. Curt Adam*
23 *Mieczkowski, et al.* (Super. Ct. Alameda County, 2011, No. CR432413). According to
24 Mieczkowski’s testimony, he served 26 days in jail.

25 15. On or about March 1, 2013, Mieczkowski’s misdemeanor conviction for violating
26 Penal Code section 415, fighting/noise/offensive words, was set aside and dismissed pursuant to
27 Penal Code sections 17 and 1203.4.
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1 16. On or about August 11, 2014, in response to a request for information from the
2 Bureau, Mieczkowski wrote an e-mail to the Bureau explaining the circumstances surrounding his
3 January 20, 2011 arrest and subsequent conviction for fighting/noise/offensive words.

4 Mieczkowski wrote, in pertinent part, as follows:

5 “In the years of 2010 to January 2011, my credit card was used for online
6 purchases for advertisements of legal massage services. This was for a friend and
7 his wife. The internet advertisements didn’t state anything illegal. The credit card
8 use was noticed and tracked by a Hayward police detective that was monitoring
9 [my friend’s] home for illegal activity. The detective later told me that he had
10 noticed that I was present at [my friend and his wife’s] home a couple of times in
11 the year 2010, but a few times I remembered that I was parked in the backyard
12 parking lot of their home while playing poker at the Hayward Palace card room,
13 which was a few doors down. I was arrested along with several other defendants
14 in January 2011, and questioned by the detective.

15 ...

16 I did not conspire to commit a crime with [my friend and his wife].”

17 17. During the hearing, Mieczkowski admitted that he received financial compensation for
18 placing advertisements online for massages that he knew to be advertisements for unlawful
19 prostitution; that he placed these advertisements online for three years; that he knew his friend
20 and his friend’s wife were operating illegal brothels; that he purchased condoms by the box for
21 use in the unlawful brothels; and that he escorted prostitutes to and from the airport.

22 18. Mieczkowski’s August 11, 2014 written explanation of the circumstances surrounding
23 his January 20, 2011 arrest is deliberately misleading as follows: (1) Mieczkowski was actively
24 involved in purchasing online advertisements for “legal massage services” for his friend and his
25 friend’s wife since 2008, not merely from 2010 to January 2011; (2) Mieczkowski’s credit card
26 was not merely “used” for online purchases for advertisements of legal massage services.

27 Mieczkowski used his credit card and his mother’s credit card for online purchases for
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1 advertisements of massage services he knew to be advertisements for unlawful prostitution; and
2 (3) regardless of whether Mieczkowski initially conspired to commit a crime with his friend and
3 his friend's wife, Mieczkowski knowingly assisted in the operation of the illegal brothels by
4 purchasing advertisements for the brothel's services, purchasing condoms for use in the brothels,
5 and escorting prostitutes to and from the airport.

6 19. Mieczkowski's August 11, 2014 written explanation of the circumstances surrounding
7 his January 20, 2011 arrest deliberately omits the following material facts: (1) Mieczkowski knew
8 that his friend and his friend's wife were operating illegal brothels; (2) Mieczkowski purchased
9 condoms by the box for use in the brothels; (3) Mieczkowski escorted prostitutes to and from the
10 airport; and (4) Mieczkowski profited from knowingly placing advertisements for the illegal
11 brothels for three years prior to his arrest.

12 20. The facts contained in Paragraphs 17 and 18 are material to Mieczkowski's
13 qualification and suitability for licensure.

14 21. By providing misleading information, and omitting numerous material facts, in his
15 August 11, 2014 written explanation of the circumstances surrounding his January 20, 2011 arrest
16 to the Bureau, Mieczkowski has demonstrated that he is not a person of good character, honesty,
17 and integrity.

18 22. By providing misleading information, and omitting numerous material facts, in his
19 August 11, 2014 written explanation of the circumstances surrounding his January 20, 2011 arrest
20 to the Bureau, Mieczkowski failed to reveal facts material to his qualification for licensure.

21 23. By providing misleading information, and omitting numerous material facts, in his
22 August 11, 2014 written explanation of the circumstances surrounding his January 20, 2011 arrest
23 to the Bureau, Mieczkowski supplied information that is untrue or misleading as to materials facts
24 pertaining to the qualification criteria for his licensure.

25 24. Mieczkowski was much more candid and forthcoming during the hearing regarding
26 his involvement in the illegal brothels than he was in his August 11, 2014 written statement to the
27 Bureau. Mieczkowski testified that he made a mistake by placing online advertisements for the
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1 illegal brothel's services and that he would not do it again.

2 25. Mieczkowski submitted three letters in support of his Application.

- 3 a. Stephen E. Scudero, Partner with the Nineteenth Hole cardroom, states that
4 Mieczkowski has been employed since March 2012; that he is a valued and
5 trusted employee who gets along well with customers and co-workers; that he
6 has an exemplary work record, and has never been the subject of any
7 reprimand or formal disciplinary action; and that he is currently being
8 considered for a promotion into a Key Employee position.
- 9 b. Brian Klarman, General Manager and Key Employee with the Nineteenth Hole
10 cardroom, states that Mieczkowski has worked at the Nineteenth Hole for over
11 three (3) years; that he is a very honest and trustworthy employee; that he has
12 an excellent work ethic and works well with customers; and that there has not
13 been any write-ups or disciplinary actions involving Mieczkowski.
- 14 c. Joseph Fagundes, Manager and Key Employee with the Nineteenth Hole
15 cardroom, states that Mieczkowski is an honest poker dealer; that he is
16 trustworthy; and that the chips and cash have always been balanced right on
17 Mieczkowski's shifts.

18 26. The content of all three letters is favorable toward Mieczkowski's character and in
19 support of his Application. The letters are persuasive that Mieczkowski is hard-working, and a
20 dependable, valuable employee with a positive work record. However, given his lengthy and
21 material involvement in the operation of illegal brothels, the letters are not persuasive that
22 Mieczkowski is a person of honesty and trustworthiness.

23 27. Mieczkowski's lengthy and material involvement in the operation of illegal brothels,
24 which occurred while Mieczkowski was employed in the gambling industry, demonstrates a
25 callous and active disregard for the law.

26 28. As a result of Mieczkowski's lengthy and material involvement in the operation of
27 illegal brothels for three years, Mieczkowski has demonstrated that he is not a person of good
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1 character, honesty, or integrity.

2 29. The operation of illegal brothels poses a threat to the public interest of this state.

3 30. As a result of Mieczkowski's lengthy and material involvement in the operation of
4 illegal brothels for three years, and his friendship with, and employment by, the owner-operator
5 of the illegal brothels, Mieczkowski has demonstrated that he is not a person whose prior
6 activities, criminal record, reputation, and associations do not pose a threat to the public interest
7 of this state.

8 31. All documentary and testimonial evidence submitted by the parties that is not
9 specifically addressed in this Decision and Order was considered but not used by the Commission
10 in making its determination on Mieczkowski's Application.

11 32. The matter was submitted for Commission consideration on August 3, 2015.

12 LEGAL CONCLUSIONS

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

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

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

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

27 37. An "unqualified person" means a person who is found to be unqualified pursuant to
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1 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to
2 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code
3 section 19823(b).

4 38. The Commission has the power to deny any application for a license, permit, or
5 approval for any cause deemed reasonable by the Commission. Business and Professions Code
6 section 19824(b).

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

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

12 41. No gambling license shall be issued unless, based on all of the information and
13 documents submitted, the commission is satisfied that the applicant is a person whose prior
14 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
15 public interest of this state. Business and Professions Code section 19857(b).

16 42. The commission shall deny a license to any applicant who is disqualified for failure of
17 the applicant to provide information, documentation, and assurances required by this chapter or
18 requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the
19 supplying of information that is untrue or misleading as to a material fact pertaining to the
20 qualification criteria. Business and Professions Code section 19859(b).

21 43. An application for a work permit shall be denied by the Commission if the applicant
22 meets any of the criteria for mandatory disqualification under Business and Professions Code
23 section 19859. CCR section 12105(a)(1).

24 44. An application for a work permit shall be denied by the Commission if the applicant is
25 found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of Business and
26 Professions Code section 19857. CCR section 12105(a)(2).

27 45. Mieczkowski has failed to meet his burden of demonstrating that he is a person of
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1 good character, honesty, and integrity. Therefore, Mieczkowski is unqualified for the issuance of
2 a work permit pursuant to Business and Professions Code section 19857(a) and CCR section
3 12105(a)(2).

4 46. Mieczkowski has failed to meet his burden of demonstrating that he is a person whose
5 prior activities, criminal record, reputation, and associations do not pose a threat to the public
6 interest of this state. Therefore, Mieczkowski is unqualified for the issuance of a work permit
7 pursuant to Business and Professions Code section 19857(b) and CCR section 12105(a)(2).

8 47. Mieczkowski has failed to reveal facts material to qualification, and has supplied
9 information that is untrue or misleading as to a material fact pertaining to the qualification
10 criteria. Therefore, Mieczkowski is disqualified for the issuance of a work permit pursuant to
11 Business and Professions Code section 19859(b) and CCR section 12105(a)(1).

12 NOTICE OF APPLICANT'S APPEAL RIGHTS

13 Mieczkowski has the following appeal rights available under state law:

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

15 An applicant denied a license, permit, registration, or finding of suitability, or whose
16 license, permit, registration, or finding of suitability has had conditions, restrictions,
17 or limitations imposed upon it, may request reconsideration by the Commission
18 within 30 calendar days of service of the decision, or before the effective date
19 specified in the decision, whichever is later. The request shall be made in writing to
20 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.

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

22 A decision of the commission denying a license or approval, or imposing any
23 condition or restriction on the grant of a license or approval may be reviewed by
24 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of
25 the Code of Civil Procedure shall not apply to any judicial proceeding described in
26 the foregoing sentence, and the court may grant the petition only if the court finds
27 that the action of the commission was arbitrary and capricious, or that the action
28 exceeded the commission's jurisdiction.

1 CCR section 12066, subsection (c) provides:

2 A decision of the Commission denying an application or imposing conditions on license
3 shall be subject to judicial review as provided in Business and Professions Code section
4 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
5 filing the petition shall be affected by failure to seek reconsideration.

6 ORDER

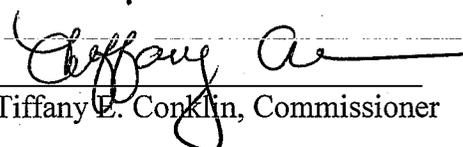
- 7 1. Curt Adam Mieczkowski's Application for Work Permit Renewal is DENIED.
- 8 2. Curt Adam Mieczkowski may not apply to the Commission or Bureau for any type of
9 license, registration or work permit for five (5) years after the effective date of this Order.
- 10 3. No costs are to be awarded.
- 11 4. Each side to pay its own attorneys' fees.

12 This Order is effective on October 1, 2015.

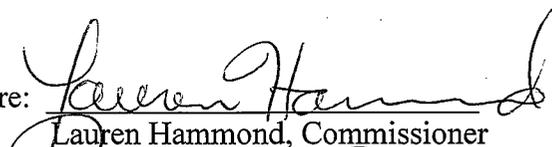
13 Dated: 8-27-15

14 Signature: 
Jim Evans, Chairman

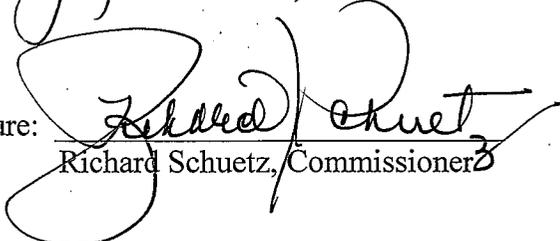
15 Dated: Sept. 1, 2015

16 Signature: 
Tiffany E. Conklin, Commissioner

17 Dated: 8-27-15

18 Signature: 
Lauren Hammond, Commissioner

19 Dated: Aug. 27, 2015

20 Signature: 
Richard Schuetz, Commissioner